



Dossier 2: Proposal for an EU Regulation ‘Facilitating cross-border solutions’ – Cross-Border effects across European cross-border regions (ITEM-TEIN joint study)

Cross-Border Impact Assessment 2024



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ITEM *10 years
of expertise*
Cross-border



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Abbreviations

AEBR	Association of European Border Regions
BGTC	Benelux Grouping of Territorial Cooperation
BRIDGEU	Border Regions' Instrument for Development and Growth in the EU
CCT	Franco-German Cross-Border Cooperation Committee
CESCI	Central European Service for Cross-Border Initiatives
CBCP	Cross-border Coordination Point
DG REGIO	Directorate-General for Regional and Urban Policy
ECBM	European Cross-border Mechanism
EGTC	European Grouping of Territorial Cooperation
EMR	Euregio Meuse-Rhine
ERN	Euroregion Neisse-Nysa-Nisa
EYREX	Euroregional Expert Groups
FCBS	Facilitating Cross-border Solutions (proposed EU Regulation)
GDP	Gross Domestic Product
ITEM	Institute for Transnational and Euregional cross border cooperation and Mobility
NCP	National Contact Point
NRW	North-Rhine Westphalia, Germany
NUTS	Nomenclature of Territorial Units for Statistics
TEIN	Transfrontier Euro-Institut Network
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union

1. Introduction

Legal and administrative obstacles across borders present significant challenges for citizens, businesses and institutions in cross-border regions. Obstacles arising from differences in administrative and legal systems are complex and costly, making effective cross-border practices and cooperation difficult to establish. As a result, citizens may have less effective access to services like healthcare compared to citizens living in central areas. A study in 2017 conducted for the European Commission has inventoried 239 legislative and administrative obstacles, categorizing them into three types¹:

- EU-related legal obstacles: caused by a specific status of an EU border, European legislation, or the implementation of EU legislation. This could be in fields where the EU has exclusive or shared competency;
- Member State-related legal obstacles: caused by different and/or regional laws, that conflict at the border or with the cross-border reality. In these fields, the EU has no or only limited competence;
- Administrative obstacles: caused by non-willingness, asymmetric cooperation or lack of horizontal, cross-border coordination of policies or practices. They could also be different administrative cultures or languages.

Another commissioned study by the European Commission in 2017 quantified the effects of legal and administrative border obstacles, also addressing the spatial distribution of losses.² Here, losses due to the border obstacles are found to be even greater among more integrated cross-border regions. This study estimated a total European GDP loss of 458 billion euros (3%) and 6 million jobs (also 3% of the total European employment).³ In a 2021 published report, where border regions are described as 'living labs of European integration', the Commission demonstrated the positive effects for both cross-border regions and for the Union as a whole on resolving cross-border obstacles.⁴ The European Commission estimates that removing just 20% of these obstacles is estimated to boost GDP by 2% and create over one million jobs in these regions.⁵

Despite the significant effect that border obstacles present for European cross-border regions, at the EU level, there is no uniform procedure to resolve such barriers. In 2018, the European Commission made an attempt to establish such a procedure by proposing a tool to solve the border obstacles, via the 'European Cross-border Mechanism' (ECBM). The ECBM would allow the application of legal provision in another Member State, in order to overcome a legislative conflict in delivering a joint (cross-border) project. Although a tool of a voluntary nature, the proposal was blocked by the Member States due to concerns about its compatibility principles of subsidiarity and proportionality, the legal basis of the proposal and competences of the EU and the constitutional law of the Member States.⁶

¹ Pucher, J., Stumm, T., & Schneidewind, P., *Easing Legal and Administrative Obstacles in EU Border Regions*, Luxembourg: Publications Office of the European Union, 2017.

² A. Caragliu, R. Capello, R. Camagni, et al., *Quantification of legal and administrative border obstacles in land border regions*, DG REGIO, European Commission, May 2017.

³ *Ibid*, p. 16.

⁴ 'EU Border Regions: Living labs of European integration' COM(2021) 393 final. 2021.

⁵ 'Boosting growth and cohesion in EU border regions' COM(2017) 534 final. 2017, p. 6.

⁶ Amended 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(2023) 790 final. 2023.

Yet, a European added value assessment of the European Parliamentary Research Service on a mechanism to resolve legal and administrative obstacles in a cross-border context highlighted the need for EU action to overcome border obstacles.⁷ The status quo would have a tangible negative impact. The assessment also argued that there is no ‘one size fits all’ approach, since border regions usually face a combination of legal and administrative obstacles and, secondly, different administrative practices across EU border regions. Since the 2018 proposal did not get enough political support in the Council, the European Parliament initiated an legislative-initiative resolution.⁸ On 14 September 2023, the European Parliament adopted its Resolution with recommendations to the Commission on amending the proposed mechanism to resolve legal and administrative obstacles in a cross-border context.⁹ As an Annex to the Resolution, the Parliament also proposed concrete amendments to the regulation under the name of Border Regions’ Instrument for Development and Growth in the EU (BRIDGEU).

On 12 December 2023, the European Commission published their amended proposal for a ‘Regulation on Facilitating Cross-Border Solutions’ (hereinafter: the FCBS Regulation). The FCBS Regulation proposes that Member States set up Cross-border Coordination Points (CBCPs) which would assess border obstacles and act as a ‘liaison’ between border stakeholders and national authorities. The Member States would then have an option to apply a ‘Cross-border Facilitation tool’, a voluntary procedure designed to resolve administrative and legal obstacles in cross-border regions. The decision whether to resolve a border obstacle remains the prerogative of the competent national authorities.

Several cross-border regions may already know of similar practises on addressing and solving border obstacles. On the EU level, for instance, the *b-solutions* project already provides a tool and funding for stakeholders to have experts advising solutions for cross-border obstacles. However, on a Member State and regional level there are differences on existing tools and structures for such obstacles. Some countries already have collaborations and structures, others do not yet. The existing structures may also exist only for certain land borders but not to all borders of a given Member State. Therefore several questions arise as follows:

- How does the impact of the proposed FCBS Regulation differ between cross-border regions?
- What does the EU proposal add to the existing practises?
- Does the FCBS Regulation provide more positive outcomes for some regions than others?

Together with TEIN partners¹⁰, this dossier examines these questions across four different cross-border regions in Europe: the Benelux-Germany, France-Germany, Euroregion Nisa Neisse-Nysa-Nisa (the Czech and the Polish part), and Austrian and Hungarian suburban region of Bratislava.

⁷ L. Jancová, C. Kammerhofer-Schlegel, ‘Mechanism to resolve legal and administrative obstacles in a cross-border context. European added value assessment’, European Parliamentary Research Service, May 2023.

⁸ In line with Article 225 TFEU.

⁹ European Parliament resolution of 14 September 2023 with recommendations to the Commission on amending the proposed mechanism to resolve legal and administrative obstacles in a cross-border context (2022/2194(INL)).

¹⁰ <https://transfrontier.eu/>

1.1 Research themes, definitions and demarcation

This dossier will contribute to the 'ex-ante' mapping of potential cross-border effects of proposed legislation, mainly that of the EU Regulation on Facilitating Cross-border Solutions. As regards the geographical delimitation of the analysis, this dossier focuses on four case studies of European cross-border regions: Benelux and Germany, France-Germany, Euroregion Neisse-Nysa-Nisa (the Czech and the Polish part) and Austrian and Hungarian suburban region of Bratislava. The geographical demarcation is separately defined for each case study.

The dossier will first examine and provide a description of the key aspects of the proposed FCBS Regulation. The second part of the dossier includes the case studies from European cross-border regions. The case studies follow the same methodology based on the three research themes covered in this dossier.

Under the theme of Euregional Cohesion, the case studies of this dossier examine the level of cooperation and current level of integration in the selected cross-border regions. This includes an evaluation of how cross-border obstacles are currently addressed: whether there are any bodies and/or institutional structures present, how they differ from the Cross-border Coordination Points proposed by the FCBS Regulation, and what added value the EU proposal brings to cross-border governance and solving border obstacles.

Under the theme of European Integration, this dossier evaluates the benefits of the EU proposal on fostering free movement and the single market in the EU. Finally, related to the assessment of Socio-economic Development, the dossier examines the benefits of solving cross-border obstacles for citizens and businesses in the evaluated European cross-border regions.

Table 1: Research themes, principles, benchmarks, and indicators for assessing the cross-border effects of proposal for EU Regulation on Facilitating Cross-border Solution

Theme	Principles	Benchmarks	Indicator
Euregional Cohesion	<p>Strengthening economic, social and territorial cohesion Article 174-175 TFEU</p> <p>A functioning cross-border collaboration</p>	<p>Current level and quality of cooperation and level of integration in the cross-border region</p> <p>The quality of cross-border institutions that deal with obstacles today</p> <p>How border obstacles are addressed currently analysed and put on the political agenda</p>	<p>Qualitative: What kind of bodies and/or institutional structures address border obstacles in the region currently and over which themes (e.g. border obstacles on labour market, education, healthcare, safety, transport)?</p> <p>Do the existing bodies/institutional structures differ from the proposed 'Coordination Points', and how?</p> <p>What added value does the proposal bring on cross-border governance/addressing border obstacles?</p> <p>Quantitatively: How many bodies currently address border obstacles in the region?</p> <p>Contribution to cross-sectoral cross-border cooperation? Level of cross-border cooperation in different sectors?</p>
European Integration	<p>Free movement Arts. 20, 45, 49, 56 TFEU</p> <p>Internal market Art. 114 TFEU</p> <p>Strategic objectives described I the Commission Communication of 2017</p> <p>"Boosting growth in border regions" COM(2017) 534 final</p>	<p>Cross-border mobility in the region</p> <p>Role of the EU-level initiatives and coordination points, e.g. SOLVIT and National Contact Points on Cross-border Healthcare (NCPs) in the comparison to future coordination points</p>	<p>What is the current level of cross-border mobility in the region?</p> <p>How does the proposal benefit/foster the free movement and cross-border mobility in the region?</p> <p>What does the proposal on establishing Cross-border Coordination Points add on existing EU-level initiatives?</p> <p>Number and quality of court cases against the Member States with respect to cross-border mobility</p>
Sustainable Development/ Socio-Economic Development	<p>Well-functioning cross-border region promoting socio-economic development in the region</p> <p>Sustainable development Art. 3(3) TEU</p> <p>Economic objectives mentioned in the Communication Boosting Growth</p>	<p>Well-functioning cross-border region from the aspects of economic, social, and territorial development and sustainability</p> <p>The situation in other regions in the country (without borders)</p> <p>The situation in other border regions</p>	<p>What type of obstacles could be removed by the proposal with relevant impact on the socio-economic situation?</p> <p>What is the estimation on positive socio-economic development in case border obstacles are solved for both citizens and businesses?</p> <p>Is there an economic benefit, e.g., for companies operating in the cross-border region, if there is better access to solve border obstacles?</p> <p>Are there specific benefits linked to sectors where obstacles are very persistent (i.e. energy, labour market, health, etc.)?</p>

2. Proposal for an EU Regulation ‘Facilitating cross-border solutions’

On 12 December 2023, the European Commission published an amended proposal for a mechanism to resolve legal and administrative obstacles in a cross-border context, the Regulation on Facilitating Cross-border Solutions (the FCBS Regulation).¹¹

The FCBS Regulation proposes setting up cross-border coordination points (hereinafter, CBCPs) in the Member States. The Member States may choose to set up one or more CBCPs, on the national and/or regional level, either nominating an existing body or creating new bodies, individually or jointly with the neighbouring Member States.¹² In the current state of the proposal, it is, therefore mandatory for every Member State to establish at least one CBCP. As the CBCPs should serve as ‘one-stop shops’ for cross-border obstacles, the Member States should dedicate a main CBCP in case multiple coordination points are established. Each Member State should inform the European Commission of the establishment of CBCP(s) within six months after the entry into force of the Regulation.¹³

The task of CBCPs is to assess cross-border obstacles submitted by public or private law entities or natural persons (hereinafter: initiators), who have a legitimate interest in resolution of a cross-border obstacle.¹⁴ The Member States must decide whether the CBCP can act upon a cross-border obstacle on their own, or whether they are only responsible for communicating with initiators on behalf of the competent authority.¹⁵

The initiator prepares a cross-border file describing the situation and obstacle to be resolved, including a justification for the need to resolve the obstacle as well as the geographical area concerned.¹⁶ The initiators can submit cross-border files jointly with several legal or natural persons; however, the file can be only submitted once in the Member State where the initiator is located or has its registered office.¹⁷ If a similar cross-border file is submitted by initiators in another Member State, the CBCPs should avoid parallel files by organising their coordination accordingly.¹⁸

After receiving the cross-border file from the initiator, the CBCP assesses the file and evaluates whether there is indeed an obstacle. The FCBS Regulation defines a cross-border obstacle as ‘any legislative or administrative provision or practice by a public authority in a Member State that potentially negatively affects a cross-border interaction and thus the development of a cross-border region and which does not involve a potential breach of Union law governing the internal market’.¹⁹ This means obstacles that are a result of potential breaches of EU legislation, are out of the scope of the FCBS Regulation and addressed by other instruments, such as SOLVIT. However, the cross-border coordination points would cooperate with the SOLVIT centres to transfer the cross-border files if

¹¹ Amended 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(2023) 790 final. 2023.

¹² *Ibid*, Article 4.

¹³ *Ibid*, Article 13(1)

¹⁴ *Ibid*, Article 3(1)(6).

¹⁵ *Ibid*, Article 5(2)

¹⁶ *Ibid*, Article 7.

¹⁷ *Ibid*, Article 6(2).

¹⁸ *Ibid*, Recital 12.

¹⁹ *Ibid*, Article 3(1)(2).

necessary.²⁰ The FCBS Regulation applies to cross-border obstacles in land or maritime borders regions of neighbouring Member States. It does not apply cross-border obstacles with third countries.²¹

Within two months of the submission of the cross-border file, the CBCP or competent authority may request the initiator to submit additional information.²² The CBCP or competent authority may conclude that there is no obstacle, in case the description of the obstacle is based on insufficient information, misinterpretation of the applicable legal or administrative provisions, or because the provisions already cover the necessary requirements to address the obstacle. In that case, the CBCP will consider the obstacle as resolved and close the cross-border file.²³

In case the CBCP or the competent authority concludes that there is an obstacle, the Member States may choose to either resolve the obstacle or not. In case they decide not to, they should provide reasons and indicate possible options of legal redress, in particular when the Member State concludes that the obstacle identified does not fall within scope of the FCBS Regulation.²⁴

When the Member State decides to resolve the obstacle, first, they will look at whether there are existing cooperation agreements, institutional structures and/or tools available to resolve the identified obstacle. If such an option exists, the resolution of the obstacle will follow the procedure established by that agreement or tool. In case there are no existing structures or tools, or if they are not sufficient in resolving the obstacle in question, the Member State may voluntarily choose to use the 'Cross-border Facilitation Tool' as set in the Regulation.²⁵ The CBCP or competent authority must inform the initiator in writing of their preliminary assessment, within a standard deadline provided for in the national legislation. In case no deadline is set, the FCBS Regulation sets a 6-months deadline for their decision (not) to examine the cross-border file.²⁶

The Cross-border Facilitation Tool is a single, standard procedure to solve a legislative or administrative obstacle.²⁷ In this procedure, the CBCP contacts the competent authority to establish whether there is interest and feasibility in resolving the obstacle. They will also inform and coordinate the file with the CBCP in the neighbouring Member State, in case there is no joint CBCP established on the relevant border.²⁸

In case solving the obstacle would require amending current legislation, the CBCP contacts the competent authority to check whether an amendment, including an exception or a derogation from the applicable legal provision, would resolve the obstacle. The competent authority may then trigger a legislative procedure in accordance with the institutional and legal framework.²⁹ In case of

²⁰ *Ibid*, p. 2.

²¹ *Ibid*, Article 2.

²² *Ibid*, Article 8(2).

²³ *Ibid*, Recital 14.

²⁴ *Ibid*.

²⁵ *Ibid*, Recital 15.

²⁶ *Ibid*, Article 9(2).

²⁷ *Ibid*, Articles 10-13.

²⁸ *Ibid*, Article 10(3).

²⁹ *Ibid*, Article 10(5).

administrative obstacles, the authority contacted by the CBCP may decide to amend that administrative provision or practise.³⁰

In case two or more neighbouring Member States decide to jointly launch a legislative procedure or change an administrative provision or practise, the FCBS Regulation provides that they need to do that in close coordination, possibly by setting up a joint committee with representatives of the CBCPs and in accordance with their respective legislative frameworks.³¹

The FCBS Regulation proposes procedural standards in order to ensure legal certainty for initiators in processing their submitted cross-border files.³² After the CBCP or competent authority have decided to use the Cross-border Facilitation Tool, they should inform the initiator in writing within 8 months from the submission of the cross-border file.³³ In case there are delays to the procedure, the CBCP informs the initiator in writing of the reason for the delay and the expected timeline of the reply.³⁴ In this information, the CBCP should inform the initiator about the outcomes of the procedure and the deadline for legal redress under national law.³⁵ In the absence of any deadline under national law, the FCBS Regulation specifies that the initiator is given 6 months to request a review of the decision.³⁶

The Member State should ensure that the contact information for the CBCP(s) is publicly available and ensure its visibility and accessibility.³⁷ Moreover, the CBCPs are responsible for setting up and maintaining a public register covering all cross-border files submitted by initiators located in that Member State in a machine-readable format and support the European Commission coordination tasks by providing information, including the NUTS classification for each file.³⁸

The European Commission will liaise with the CBCPs, promote the exchange of experiences between the Member States and CBCPs, publish and keep an updated list of all national and regional CBCPs, and set up and maintain a public register of cross-border files.³⁹

³⁰ *Ibid*, Article 10(4).

³¹ *Ibid*, Article 11(3).

³² *Ibid*, Article 9.

³³ *Ibid*, Articles 10(4) and (5).

³⁴ *Ibid*, Article 10(7).

³⁵ *Ibid*, Article 11(1).

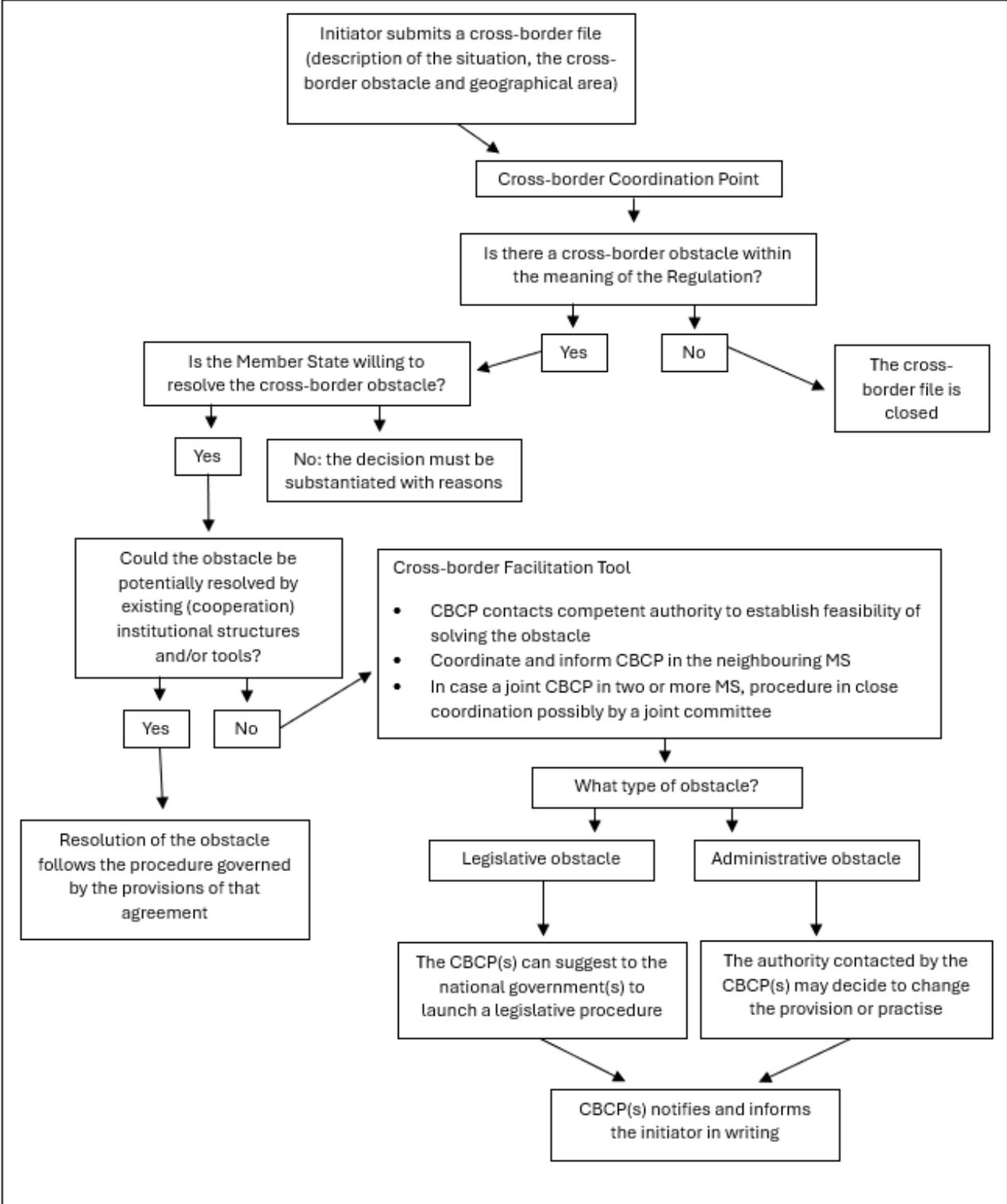
³⁶ *Ibid*, Article 11(1)(e).

³⁷ *Ibid*, Article 4(4).

³⁸ *Ibid*, Article 5(4) and Recital 11.

³⁹ *Ibid*, Article 12.

Figure 1: Simplified decision-tree of solving cross-border obstacles under the FCBS Regulation



2.1 Preliminary assessment of the impact of the FCBS Regulation

The FCBS Regulation presents a political compromise after the Member States' resistance to adopt the European Cross-border Mechanism. The FCBS Regulation consistently highlights the voluntary nature of the 'Cross-border Facilitation Tool' and leaves significant discretion to the Member States whether or not to solve a cross-border obstacle.

In the adapted proposal, a legal instrument to solve cross-border obstacles, such as the ECBM, is missing. There is no legal tool as such incorporated that allows for deviations in legal cross-border obstacles, as was the case for the ECBM proposal. The only mandatory obligation established by the FCBS Regulation is that each Member State must dedicate at least one Cross-Border Contact Point (CBCP). These CBCPs are not in fact a new proposal of the European Commission, but they were already part of the ECBM proposal, although not a mandatory obligation for Member States to implement. The difference in the scope of focus of the ECBM proposal and the FCBS proposal also has changed the role of the proposed CBCPs. While under the ECBM proposal the CBCPs would take formal actions regarding (solving) the submitted obstacle, under the FCBS proposal the CBCPs mainly function as coordinators: single points of contact and a liaison between the cooperating actors, competent authorities and other coordination points.⁴⁰

The FCBS Regulation allows each Member State to determine the form and number of CBCPs. This means a Member State could choose to have only one CBCP for the entire country, potentially lacking regional insights and cooperation with (all) neighbouring Member States and regions. The sole requirement is that the contact information for the CBCP(s) must be publicly available, ensuring their visibility and accessibility. This could mean that simply providing an email address online, where border files can be submitted by initiators, could suffice.

Given the differences in how the Member States might implement the CBCPs and the varying levels of effort and willingness they put into resolving border obstacles, the effectiveness of the Regulation could vary significantly. As a result, the FCBS Regulation might only nominally 'facilitate cross-border solutions' without effectively addressing or solving them. Therefore, the success of the FCBS Regulation will heavily depend on how the Member States implement it and the cross-border framework in which a CBCP will be situated in.

This is also true given that whether the national government and competent authorities choose to resolve the obstacle remains completely voluntary. They only must respond to each obstacle file submitted but can freely decide not to continue in resolving a cross-border obstacle. A legislative process like the ECBM is completely missing — the 'cross-border facilitation tool' is merely a potential procedure that authorities can use according to their own national legislation, with only few mandatory obligations on informing the initiator about their decision within the set deadlines.

The FCBS Regulation also emphasizes the use of existing cooperative agreements, structures, and tools that are bi- or multilaterally agreed upon between Member States. The CBCP may choose to use these tools rather than the new border facilitation tool. Obstacles that fall outside the scope of the Regulation can be addressed by EU-level initiatives like SOLVIT or *b-solutions*. This highlights the

⁴⁰ Loth Van der Auwermeulen, 'From ECBM to CBFT: from solving obstacles to facilitating solutions' Transnational Administrative Law Network. March 2024. Accessed via: <https://transadmlaw.org/2024/03/09/from-ecbm-to-cbft-from-solving-obstacles-to-facilitating-solutions-by-loth-van-der-auwermeulen/>

complexity and layers of solutions for addressing and solving border obstacles on regional, national and European levels.

The concern is that the FCBS Regulation might only add to this complex web of structures without bringing anything new or effective to the table. On the other hand, the Regulation may be more effective in Member States where such structures or tools for addressing and solving border obstacles are lacking. In 2019, ITEM came to similar conclusions regarding the ECBM proposal in a 2019 Cross-border Impact Assessment.⁴¹

The adapted proposal, therefore, presents a (negative/mitigated) transition from *solving* cross-border obstacles (via the ECBM mechanism) to only *facilitating* cross-border solutions. There is a clear transition from solving cross-border obstacles via a legal tool (ECBM, especially the European cross-border commitment) to addressing border obstacle solutions via a common governance structure (CBCPs). In light of these fundamental changes, it is surprising that the Commissions' own Impact Assessment on the adapted FCBS proposal has not been updated nor amended from the one for the ECBM proposal.⁴² In the Explanatory Memorandum, the Commission refers to the impact assessment of the 2021-2027 Cohesion Policy legislative package as a whole, to which the ECBM proposal was part of in 2018: "Which continues to apply. [...], there is no need for an updated impact assessment for the amended proposal."⁴³ The Commission rightfully states that the original focus on resolving the legal and administrative obstacles is maintained. Nevertheless, the concrete means that allow deviations and solutions for cross-border obstacles have changed significantly. While communication is still much focused on the ability to solve obstacles, it cannot enforce nor ensure that cross-border obstacles brought forward to cross-border coordination points will be adequately solved. This is still very much up to the available instruments and political will of Member States.

Due to the wide discretion left to the Member States, scholars have raised a question of whether there is added value that the legislation is proposed in the form of an EU Regulation, or whether an EU Directive "could have presumably served the same purpose."⁴⁴

Looking at the legislative process of the FCBS Regulation, there is not a clear picture yet about the political support. As mentioned, the European Parliament adopted the Resolution leading to the FCBS Regulation. In a Joint Declaration of the Benelux Prime Ministers of 29 November 2023, the Prime Ministers of the Benelux countries welcomed and supported the resolution of the Parliament on BRIDGEU.⁴⁵ Indeed, in the Dutch national impact assessment of the FCBS proposal, a positive reaction was also given.⁴⁶ Also the Committee of the Regions issued a positive Opinion, calling on the Member

⁴¹ Hannelore Niesten, Nina Büttgen, Martin Unfried 'European Cross-Border Mechanism' (ECBM) – An ex-ante evaluation of crossborder impact for resolving border obstacles in Belgian, Dutch, and German border regions' ITEM Cross-border Impact Assessment 2019. Accessed via: <https://crossborderitem.eu/wp-content/uploads/2023/07/grefrap19-D3-EN.pdf>

⁴² Explanatory Memorandum, COM (2023) 790 final. Strasbourg, 2023.

⁴³ *Ibid.*

⁴⁴ Loth Van der Auwermeulen, 'From ECBM to CBFT: from solving obstacles to facilitating solutions' Transnational Administrative Law Network. March 2024. Accessed via: <https://transadmlaw.org/2024/03/09/from-ecbm-to-cbft-from-solving-obstacles-to-facilitating-solutions-by-loth-van-der-auwermeulen/>

⁴⁵ <https://www.government.nl/documents/diplomatic-statements/2023/11/29/benelux-prime-ministers-summit-joint-declaration-rotterdam>

⁴⁶ Parliamentary documents 2023, 22 112, nr. 3886, Fiche: Voorstel mechanisme belemmeringen grensregio.

States ‘to enter the negotiations with a fresh view’.⁴⁷ Nevertheless, from informal discussions it became clear that a positive verdict in the Council is not yet for granted. Among others, the Nordic countries raised their concerns on the mandatory nature of installing cross-border coordination points. In the case of the Nordic countries, they want to overcome duplications with their Nordic Council and Freedom of Movement Council in particular. Other aspects may be the financing of cross-border coordination points⁴⁸ and administrative burdens. Under the Hungarian presidency, the negotiations in the Council are continued, working on a compromise by, for example, making the cross-border coordination point also of a voluntary nature.

2.2 Existing cross-border instruments and coordination points on the EU-level

As the FCBS Regulation emphasizes the use of existing instruments, this section briefly describes the instruments and mechanisms currently in place at the EU level on cross-border cooperation. Next to the case studies, this is important in evaluating the added value of the FCBS Regulation.

The FCBS Regulation already makes a reference to SOLVIT. SOLVIT is a service established at the EU level, provided by the national administration of each EU Member State. Free of charge, EU citizens and businesses can submit a case to SOLVIT when their EU rights have been breached by public authorities of another EU country, and when their case has not (yet) been taken to court.⁴⁹ Thus, SOLVIT provides mechanisms for legal and natural persons to submit an obstacle; however an obstacle arising from a breach of EU legislation, rather than incompatibility or incoordination of national legislations in a cross-border context. In this sense, the FCBS Regulation would add another contact point for stakeholders (“initiators”) on (cross-border) obstacles that do not fall within the scope of review of SOLVIT.

Another important instrument addressing cross-border obstacles at the EU-level is the *b-solutions* project. Promoted and funded by DG REGIO and managed by AEBR, the *b-solutions* project addresses legal and administrative obstacles along EU internal borders. Within open calls, applications for projects to overcome cross-border challenges by presenting in-depth analyses, can be applied by public bodies, cross-border entities (EGTCS, Euregions) or other bodies governed by public law with a legal personality. The evident limitation is, therefore, that other parties (private law entities or natural persons) cannot submit border obstacles to be solved, like under the proposed FCBS Regulation. Border obstacles by eligible public authorities can also be submitted only as offered by the calls. If the submitted case is selected, legal experts selected by the AEBR with knowledge of cross-border instances analyse the border obstacle in-depth and advise then the entities on how to overcome an obstacle and structure their cooperation.⁵⁰

One of the aims of the *b-solution* project is also to draw attention to innovative proposals and implementation of approaches by national and regional authorities and/or via EU instruments. In the 1st and 2nd calls the experts explored the European Cross-border Mechanism and how far the submitted

⁴⁷ Committee of the Regions, Opinion Mechanism to resolve legal and administrative obstacles in a cross-border context – The Cross-Border Facilitation Tool, COTER–VII/037

⁴⁸ This concern was also mentioned by the Committee of the Regions.

⁴⁹ See more at: https://ec.europa.eu/solvit/what-is-solvit/index_en.htm

⁵⁰ See more at: <https://www.b-solutionsproject.com/call-for-proposals>

obstacles could be solved by the ECBM. In the 2020 report of *b-solutions*, it was found that several cases highlight the potential value of the proposed ECBM.⁵¹ The 2021 compendium also showed the positive benefits of the ECBM for resolving cross-border obstacles: the experts evaluated that in 38% of the cases the ECBM could be a useful tool in overcoming a cross-border obstacle. However, the experts emphasised that the ECBM value lies in its complementary nature. In some cases, the ECBM was regarded as not the best option for the specific cross-border obstacles, as other possible solutions based on existing institutional cooperation or bilateral agreements seemed more feasible.⁵² Regarding the Cross-border Coordination Points, some experts found them useful in liaising with all competent authorities, especially in complex cross-border issues, as well as organising coordination activities.⁵³

Next to the small-scale funding opportunities, the European Union also supports cross-border cooperative projects via Interreg structural funds. The current interregional cooperation programme of 2021-2027 supports European regions across 36 countries, with seven programme objectives in innovation, sustainability, mobility, social services, urban development and regional governance.⁵⁴ However, although the Interreg programmes provide EU funding for cross-border projects, Interreg programmes cannot tackle the legal and administrative cross-border obstacles alone as they can require decisions outside of the scope of the programme and project management structures.⁵⁵

Next to funding, the EU Regulation establishing European Grouping of Territorial Cooperation (EGTCs) provides an institutional structure for cross-border cooperation. It allows public entities of different Member States to come together under a new entity with full legal personality. The EGTCs enables public authorities in several Member States to deliver joint services, without requiring a prior international agreement to be signed and ratified by national parliaments. However, the Member States must agree to the participation of potential members in their respective countries. The law applicable is that of the Member State in which the official EGTC headquarters are located.⁵⁶ Therefore, its limitation lies in that it does not offer an option, such as the ECBM, to apply the law of the neighbouring Member State in the event of a conflict. The FCBS Regulation could thus offer a governance framework applicable to all Member States for addressing legal and administrative challenges, complementing both the financial support provided through Interreg and the institutional

⁵¹ Association of European Border Regions (AEBR) 'b-solutions: Solving Border Obstacles - A Compendium of 43 Cases', Luxembourg: Publications Office of the European Union, 2020. Accessed via: https://www.b-solutionsproject.com/files/ugd/8f68c1_4ce87ef8407445839b3b19c392c5a2a2.pdf, p. 53.

⁵² Association of European Border Regions (AEBR) 'B-solutions: Solving Border Obstacles - A Compendium of 2020-2021', Luxembourg: Publications Office of the European Union, 2021. Accessed via https://www.b-solutionsproject.com/files/ugd/8f68c1_d4b7ca6eb8c4448598e62e0b66f8c08e.pdf, p. 156.

⁵³ *Ibid*, p. 157.

⁵⁴ See more at: <https://www.interregeurope.eu/what-is-interreg-europe>

⁵⁵ See also: Hannelore Niesten, Nina Büttgen, Martin Unfried 'European Cross-Border Mechanism' (ECBM) – An ex-ante evaluation of crossborder impact for resolving border obstacles in Belgian, Dutch, and German border regions' ITEM Cross-border Impact Assessment 2019. Accessed via: <https://crossborderitem.eu/wp-content/uploads/2023/07/grefrap19-D3-EN.pdf>

⁵⁶ Regulation (EC) 1082/2006, amended by Regulation (EU) No 1302/2013. See also: https://ec.europa.eu/regional_policy/policy/cooperation/european-territorial/european-grouping-territorial-cooperation_en.

support offered by EGTCs, which lack the legislative authority to resolve such legal obstacles.⁵⁷ Again, however, the FCBS Regulation does not establish a legal instrument.

As regards existing coordination points on the EU-level, it must be noted that although ‘Cross-border Coordination Points’ do not yet exist, cross-border coordination points have been established in fields which require a common information point for citizens regarding their EU rights. An example is the ‘Cross-border Healthcare National Contact Points’, that are mandatory in each Member State as per Directive 2011/24. While they do not solve cross-border obstacles, they provide information and advice to citizens regarding their cross-border rights to healthcare across the EU Member States. Another example is in the field of recognition of qualifications, where National Contact Points have been established on the basis of Directive 2013/55. These Contact Points are, as their name suggest, only services that provide information rather than solving cross-border obstacles. However, if the cross-border file (obstacle) is submitted in the field of cross-border healthcare, for instance, the National Contact Points could be relevant to include in the process. They could be a relevant authority that can also collect cross-border obstacles.

Figure 2: Comparison between the CBCPs and selected EU instruments

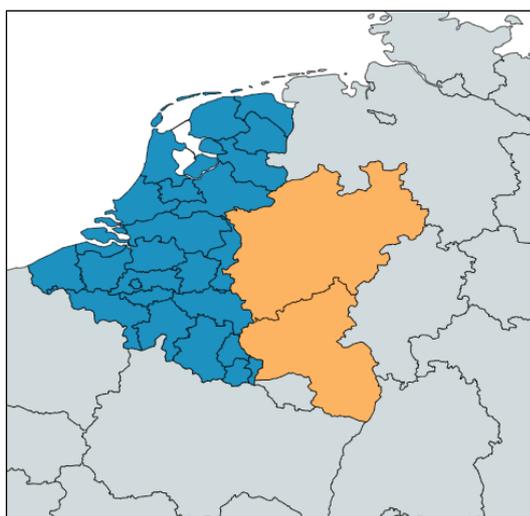
	Cross-border Coordination Point (CBCP)	SOLVIT	<i>b-solutions</i> project	National Contact Points
Type of obstacle	Any legislative or administrative provision or practice by a public authority in a Member State that potentially negatively affects a cross-border interaction and thus the development of a cross-border region and which does not involve a potential breach of Union law governing the internal market	Breach of EU legislation that has not been taken to court	Legal and administrative obstacles	Questions on EU rights
Obstacle submitted by	Initiators (public or private law entities or natural persons)	Legal and natural persons (EU citizens)	Public bodies, cross-border entities, other bodies governed by public law	Contacted by citizens
Level	Multi-, bilateral or national	National (another Member State)	Multi- or bilateral	National
Outcome	Analyses the obstacle and aims for resolution	Finding a solution with the responsible authority	Expert(s) analyse obstacle and suggest solutions	Information provision

⁵⁷ Article 7(4) of Regulation (EC) No 1082/2006.

3. Case studies: European cross-border regions

3.1 Case study: Benelux-Germany

Figure 3: Geographical delimitation Benelux+DE⁵⁸



This case study focuses on the region of the Benelux Union (Belgium, the Netherlands and Luxembourg, illustrated with blue) as well as the two bordering states of Germany (North Rhine-Westphalia and Rhineland-Palatinate, illustrated with orange) (see Figure 3).

The cross-border region is characterised with high level of cross-border mobility and cross-border cooperation. It includes several Euregions and other cross-border regional structures that are considered particularly active and of quality⁵⁹, such as the EUREGIO Gronau (DE-NL), Ems Dollart Region (DE-NL), Euregio Meuse-Rhine (BE-NL-DE), Euregion

Rhein-Waal (DE-NL), Euregio Rhine-Meuse-North (DE-NL), the Greater Region (DE-LUX-BE-FR) and Euregio Scheldemond (BE-NL). Furthermore, there are several other cross-border regional structures as well as cross-border information points and public employment services. It can, therefore, be seen as a relatively highly integrated cross-border region. Nevertheless, it is the paradoxical reality that the more cooperation and mobility occur across borders and thus more integration across borders is stimulated, the more (legal) cross-border obstacles arise and become visible. In the following subparagraphs, the levels of cooperation and implications for the FCBS Regulation will be discussed per theme.

3.1.1 Evaluation of the theme of Euregional Cohesion

In the examined area, various multi-level governance structures and institutional frameworks facilitate cross-border cooperation. This includes, for instance, the Benelux Union (a supranational structure), and a recently launched Interreg-project Coordination Point (Schakelpunt) bilaterally between Flanders-the Netherlands. Cross-border cooperation is also facilitated via other bilateral treaties and local instruments. Several Cross-border Information Points across the borders between the Netherlands, Belgium, and Germany provide information for citizens regarding cross-border work.

⁵⁸ Created with mapchart.net.

⁵⁹ Durà, A., Camonita, C., Berzi, M., & Noferini, A. (2018). Euroregions, excellence and innovation across EU borders. A catalogue of good practices. Retrieved from https://ddd.uab.cat/pub/lilibres/2018/189399/RECOT_CR11_Catalogue.pdf; Noferini, A., Berzi, M., Camonita, F., & Durà, A. (2019). Cross-border cooperation in the EU: Euroregions amid multilevel governance and re-territorialization. *European Planning Studies*, 28(1), 35–56. <https://doi.org/10.1080/09654313.2019.1623973>

Other sectoral initiatives and networks can also be identified across several themes, including labour market, education, healthcare, safety and transport.

Benelux Union

The Benelux Union represents an enhanced institutional cooperation framework among Belgium, the Netherlands, and Luxembourg. Initially established as a customs union in 1944, it evolved into an economic union by 1958. In 2008, the signing of a renewed Benelux Treaty formally established the Benelux Union. The treaty outlines key objectives, including continued cooperation across Benelux as a ‘testing ground for Europe’, and expanding cross-border cooperation. The cooperation focuses on three main themes: internal market and the economic union, promotion of sustainable development, and justice and internal affairs.⁶⁰ The Benelux Union consists of five institutions: the Benelux Committee of Ministers, the Benelux Council, the Benelux Secretariat-General, the Benelux Parliament and finally, the Benelux Court.⁶¹ The Committee of Ministers is the highest decision-making body and is formed by at least one ministerial representative of the three countries. It is the Benelux Secretary-General that supports the trilateral cooperation on a day-to-day basis. The Benelux Parliament is formed by delegates from the national parliaments and may formulate advice to the governments, both requested and unrequested.⁶²

The Benelux Treaty lays down four (legislative) instruments to foster cross-border cooperation in the participating member states via the Committee of Ministers: treaties, decisions, recommendations and guidelines. These instruments can be used to establish cross-border projects and overcome legislative and administrative obstacles.

Treaties are submitted to the three countries for signature and entry into force in accordance with the constitutional rules. The Benelux Committee of Ministers may propose new treaties or agreements. Secondly, the Benelux Committee of Ministers may adopt **decisions**, which are legally binding in Benelux countries. The possibility of defining decisions by the Benelux Committee of Ministers must have a legal basis in Benelux Treaties and within the preconditions of these treaties. In case of a decision, the Member States must implement the provisions and adapt their current legal provisions if necessary. The third instrument, **recommendations**, are not legally binding but present a political commitment for the Benelux countries. Finally, interinstitutional **guidelines (directives)** can be issued by the Benelux Committee of Ministers to the Benelux Council and the Benelux General Secretariat.⁶³ In order to ensure uniform implementation and interpretation of Benelux legislation, national courts may submit requests to the Benelux Court of Justice.

Examples of agreements signed on the Benelux level include the recent (October 2023) Benelux Police Treaty on police cooperation, replacing the 20-year-old 2004 treaty on cross-border police action.⁶⁴ Another example is the Treaty on automatic recognition of higher education diplomas in the Benelux countries, applicable not only in Benelux but extended to three Baltic states (Estonia, Latvia and

⁶⁰ Article 2(2) of the Benelux Treaty.

⁶¹ Article 5 of the Benelux Treaty.

⁶² Overeenkomst van 5 november 1955 nopens de instelling van de Raadgevende Interparlementaire Beneluxraad.

⁶³ Art. 6(2) Benelux Treaty, see also: <https://www.benelux.int/nl/info-professionals/juridische-instrumenten/>

⁶⁴ See ITEM Cross-border Impact Assessment 2024 on the Benelux Police Treaty.

Lithuania), following from a 2015 Decision.⁶⁵ Recommendations have been made, for instance, in context of labour mobility⁶⁶, and on the portability of professional qualifications.⁶⁷ Decisions have been able to solve some practical cross-border obstacles in the past, for example Decision M (2017) 15 that allowed for a common assessment framework regarding noise regulations in the cross-border industrial site ALBERTKNOOP between Flanders and the Netherlands. In this case, there was a legal basis within the Benelux Treaty and Benelux-Agreement in the field of nature conservation and landscape protection.⁶⁸

In 2014, the ministers signed the Benelux Treaty on Cross-Border and Interterritorial Cooperation, introducing three additional options for legal forms of cooperation: the Benelux Grouping of Territorial Cooperation (BGTS), a joint body, or an administrative arrangement.⁶⁹ The Treaty is also relevant for Germany, as they provide a possibility for Germany to accede to the treaty (next to France, UK and Ireland).⁷⁰

Indeed, the Benelux Union is not only relevant for the participating states of the Netherlands, Belgium, and Luxembourg, as the treaties provide options for other countries, such as Germany, to accede to them. Furthermore, in 2008, the state of North-Rhine Westphalia has signed a political declaration to cooperate with the Benelux. At the Benelux Summit held in Luxembourg in April 2019, the heads of government from the Benelux countries and North Rhine-Westphalia agreed to strengthen their existing partnership. Ten years after the initial signing, they renewed their political declaration with the goal of infusing the cooperation with new energy, expanding its focus to new areas, and further developing strategic cooperation.⁷¹

As the FCBS Regulation indicates, cross-border obstacles may be solved via existing institutional structures and legal instruments. The legal instruments, such as decisions, are already available in the Benelux area and can be used to resolve a border obstacle. Furthermore, the institutional structure of BGTC may provide opportunities for stakeholders to structure cross-border projects. If the FCBS Regulation would be adopted, this Benelux ‘toolbox’ of legal and governance instruments may enhance the effectiveness of the FCBS and the coordination points. This is because the FCBS Regulation itself does not establish a legal instrument for overcoming border obstacles — a limitation resulting from the removal of the ECBM tool from the proposal. In the Benelux-Germany area, this limitation is less pressing since there are legal instruments available via the Benelux Union or bilateral treaties.

Nevertheless, there is the important limitation of the Benelux instruments that they can only be adopted within the framework of the Benelux Union Treaty. While the instrument of decisions may allow for deviations and concrete solutions to cross-border obstacles, the scope is restricted to their

⁶⁵ Benelux Treaty on the automatic recognition of higher education qualifications, accessed via: <https://www.benelux.int/wp-content/uploads/2023/02/TREATY-reconnaissance-diplomes-14.09.2021-all-languages-with-names.pdf>. The Decision M(2015)3 of the Benelux Committee of Ministers concerning the automatic mutual generic level recognition of higher education degrees, as supplemented by the Decision M(2018)1.

⁶⁶ M_2014_17 Aanbeveling van het Benelux Comité van Ministers inzake grensoverschrijdende arbeidsmobiliteit.

⁶⁷ M_2018_6 Richtlijn betreffende de meeneembaarheid van beroepskwalificaties.

⁶⁸ Beschikking van het Benelux Comité van Ministers betreffende de beperking van geluidshinder afkomstig van bedrijven gelegen in het grensoverschrijdend bedrijventerrein ALBERTKNOOP M (2017) 15

⁶⁹ Article 3 Benelux-Verdrag inzake grensoverschrijdende en interterritoriale samenwerking.

⁷⁰ Article 27 Benelux-Verdrag inzake grensoverschrijdende en interterritoriale samenwerking.

⁷¹ See more at: <https://www.benelux.int/nl/info-burgers/benelux/noordrijn-westfalen/>

legal basis in treaties. In this respect, the ITEM 2019 Cross-border Impact Assessment on the ECBM Regulation noted that on the Benelux level, there is no horizontal legal instrument ('mechanism') that allows for legal adaptations in cross-border contexts outside those sectoral agreements. This applies, for instance, to tax matters that are regulated by intergovernmental agreements. Therefore, the FCBS Regulation could still provide additional value in fields where no specific Benelux instrument is applicable, thus providing an incentive to improve the current Benelux framework further.⁷²

Although the Benelux Union offers several (legal) instruments for cross-border cooperation and overcoming border obstacles, there is no option (for "initiators" as in context of the FCBS Regulation) to directly submit for border obstacles to be resolved. The FCBS Regulation would provide the added benefit of a clear procedure and the establishment of a right to initiate actions.

Schakelpunt (Interreg-project Flanders-the Netherlands)

In the region of Benelux and Germany, cross-border cooperation can also be fostered by the European Interreg cross-border programmes Netherlands-Flanders and Netherlands-Germany, as well as specific programmes for the territories of the Euregio Meuse-Rhine and of the Grande Région. These projects also provide opportunities to overcome common border obstacles. A prime example is the recently launched Interreg-project Netherlands-Flanders named *Schakelpunt Grensbelemmeringen Vlaanderen-Nederland* ('Cross-border Coordination Point'). The *Schakelpunt* will eventually be a pilot project of a joint 'Cross-border Coordination Point', as laid down in the FCBS Regulation. Nevertheless, this Flemish-Dutch initiative must be seen independently from the FCBS Regulation as it has its own relatively long history in the framework of Flemish-Dutch cooperation and governance processes. Interestingly, the Dutch and the Flemish governments saw the need and the added value of such a coordination point, despite the already well-developed cross-border cooperation and governance structures. There is the perception that a body that is dedicated to the structured collection, analysis and problem solving of border obstacles was missing and excellently fits into the existing governance structure.⁷³

The *Schakelpunt* has been established to address border obstacles that arise in the cross-border cooperation of people, companies, organizations and governments within the cross-border area of Flanders – the Netherlands. The project is a 3-year project in which a methodology is applied to help inventory, identify, analyse, select and put on the agenda border obstacles experienced in the border region with responsible administrators in the Netherlands and Flanders and/or Belgium. This concerns obstacles resulting from differences in regulations or administrative procedures regarding, for example, labour mobility, infrastructure, health care and agriculture. The *Schakelpunt* will cooperate with municipalities, provinces, Euregions, cross-border information points, cooperative associations, umbrella organizations, ministries and international organizations such as the Benelux and the European Union. ITEM, together with UHasselt, will provide a structural link with knowledge and expertise, both in terms of content and social involvement and multilevel governance. In this way, the

⁷² Hannelore Niesten, Nina Büttgen, Martin Unfried 'European Cross-Border Mechanism' (ECBM) – An ex-ante evaluation of crossborder impact for resolving border obstacles in Belgian, Dutch, and German border regions' ITEM Cross-border Impact Assessment 2019. Accessed via: <https://crossborderitem.eu/wp-content/uploads/2023/07/grefrap19-D3-EN.pdf>.

⁷³ M. Unfried, P. Mertens, 'A coordination point in practice: the "Flemish-Dutch Schakelpunt" as a pilot for the Facilitation tool' [Unpublished].

Schakelpunt will be able to offer substantiated solutions to governments in order to tackle border obstacles.

The *Schakelpunt* defines border obstacles as “[..] obstacles in a specific cross-border interaction, service or project, which - directly or indirectly - result from a regulatory or administrative provision or use in one or more national or regional legal orders. It concerns obstacles arising in the Flanders-Netherlands border region”. Obstacles can be submitted by public actors in the cross-border region. The *Schakelpunt*, therefore, addresses border obstacles similar to those of the proposed CBCPs. However, obstacles may be submitted more narrowly by public actors only, in contrast to 'initiators' under the FCBS Regulation, which can be public or private law entities or natural persons.

The *Schakelpunt*-initiative represents the need and interest for Cross-border Coordination Points, as suggested by the FCBS Regulation. If adopted, the FCBS Regulation could enhance the recognition and position of the *Schakelpunt* as a joint cross-border coordination point between Flanders and the Netherlands. Currently, it faces the challenge of being a pilot project funded temporarily for three years under Interreg. However, if the Regulation is adopted, it could secure permanent support (and potentially, funding) if it is officially nominated as a 'coordination point' as part of the enforcement of the regulation. On the other hand, if the regulation is not adopted, the *Schakelpunt* could still serve as a pilot project to test the role and effectiveness of 'cross-border coordination points', potentially inspiring other border regions to establish similar structures.

Bilateral and local instruments

In the region of Benelux and Germany, agreements on cross-border cooperation also exist on a bilateral level. An example is the Anholt treaty of 1991, signed by the national governments of Germany and the Netherlands, and the states of NRW and Lower Saxony, providing a further legal basis for cross-border cooperation. On the basis of the Anholt treaty, for instance, the Eurode Business Center (cross-border center for both Dutch and German services and businesses)⁷⁴ and the cross-border industrial park (GVZ Europark Coevorden-Emlicheim)⁷⁵ has been established.

On a local level, the *Gemeenschappelijk Orgaan Baarle* (i.e. the Joint Baarle Body for common municipal policy matters) was already established in 1986 involving the enclaves of Baarle-Nassau (NL) and Baarle Hertog (BE). Within this cooperation, the municipalities realised several cross-border agreements, also with the support of the Benelux.⁷⁶ After the introduction of the Benelux instruments BGTC (Benelux Territorial Cooperation Grouping), the municipal organ has gained the legal form of BGTC Baarle.⁷⁷ There are a couple more BGTCs, such as the North Sea Port District and BENEGO, as well as the European EGTCs, such as the multilateral Grande Région, the trilateral Euregio Meuse-Rhine and the local municipal cooperation Linieland Waal en Hulst, in the cross-border region.

⁷⁴ See more at: <https://eurodecenter.com/language/nl/startpagina/>

⁷⁵ See more at: <https://www.gvz-europark.eu/nl>

⁷⁶ See more at: <https://www.benelux.int/nl/post/benelux-ondersteunt-baarle-in-oprichting-benelux-groepering-voor-territoriale-samenwerking/>

⁷⁷ See more at: <https://www.baarle-hertog.be/samenwerking-met-baarle-nassau>

Furthermore, there are several governance processes that foster cooperation. Between the Netherlands and the Land NRW, there is the annual *Grenzlandagenda* that set common objectives for the year. Between the land Niedersachsen and the Netherlands there is a *Samenwerkingsagenda Nederland-Nedersaksen*. Between the Netherlands and Belgium there is the Thalassa meeting between the governments and between the Netherlands and Flanders there is a specific biannual top between the governments.

Cross-border Information Points

At the regional level, several Cross-border Information Points (GIPs) along the Belgian, Dutch and German borders (such as in GIP Maastricht, GIP Scheldemond, GIP Baarle-Nassau and GIP Aachen-Eurode) have been set up. Financed via provinces, municipalities and ministries, these information points provide information to cross-border workers in the region: on aspects of living and working in the cross-border region, including taxes, social security, pensions, and labour law.⁷⁸ By their nature, although Cross-border Information Points exchange with relevant stakeholders and policymakers, their task is only to provide advice and information, rather than solve border obstacles. However, due to the nature of the services offered by the Cross-border Information Points, they serve as a valuable point where border obstacles are identified, collected, and potentially forwarded to the CBCP(s). This is also true for the *Schakelpunt*, where the Cross-border Information Points are seen as a primary source and partner for the identification of cross-border obstacles.

Figure 4: Comparison between the CBCPs and the existing bodies in Benelux-Germany region

	Cross-border Coordination Point (CBCP)	Benelux Union	Schakelpunt	Cross-border Information Points
Type of obstacle	Any legislative or administrative provision or practice by a public authority in a Member State that potentially negatively affects a cross-border interaction and thus the development of a cross-border region and which does not involve a potential breach of Union law governing the internal market	Three main themes outlined by the Benelux Treaty: internal market and the economic union, sustainable development, justice and internal affairs	Direct and indirect legal or administrative border obstacles between Flanders-the Netherlands arising in a specific cross-border interaction, service or project	Questions on living/working in the cross-border region (taxes, social security, pension, benefits, labour law)
Obstacle submitted by	Initiators (public or private law entities or natural persons)	Benelux Member States	Public actors in the cross-border region	Contacted by citizens / companies
Level	Multi-, bilateral or national	Multi- or bilateral	Bilateral	Bilateral or national
Outcome	Analyses the obstacle and aims for resolution	Adopting a Benelux-instrument	Analyses the obstacle and aim for resolution	Information provision

⁷⁸ See more at: <https://grenzinfo.eu/en/>

Sectoral cross-border cooperation

In addition to the institutional and governance structures in the area of Benelux-Germany, cross-border cooperation focused on certain sectors can be identified.

Examples include EMRIC, which started as an Interreg-project and is now receiving structural public funding from its partners. Active in the Euregio Meuse-Rhine, EMRIC is a partnership of government services that are responsible for fire brigade care, technical assistance, emergency care, infectious disease control, disaster control and crisis management.⁷⁹ On the basis of Treaties such as the Anholt Treaty, agreements between the Netherlands and Germany (EMR Agreement on Cross-border Neighbourly help in Ambulance Care)⁸⁰, the agreement between Belgium and Germany (Rhineland-Palatinate)⁸¹ as well as Benelux Decision on Cross-border Emergency Ambulance Transport⁸², EMRIC has organised the cooperation and established additional joint protocols for their cross-border activities, effectively overcoming legal and administrative obstacles. This idea is now also expanded along the Dutch-German border in the forms of ERMWIC (Euregionale Rijn-Maas-Waal incidentenbestrijding en Crisisbeheersing) and the N4 network (network for crisis management along the border of the Netherlands and NRW). Another example in the field of health is Euprevent, which has been established as an Euregional network on healthcare promotion and prevention in the border region between the Netherlands, Belgium and Germany (Euregio Meuse-Rhine, Euregio Rhein-Maas-Nord, Interreg Germany-Netherlands).⁸³ In the Euregio Meuse-Rhine, Meuse-Rhine North and Rijn-Waal, an Euregional Health Insurance Card (*Internationale Zorgpas*) allows citizens insured by the CZ (Netherlands) and AOK Rheinland-Hamburg (Germany) to seek planned (specialist) healthcare across the border.⁸⁴

Other examples where sectoral cooperation exists in the Benelux-Germany area is the field of security and police cooperation. EURIEC functions as an Euregional information and expertise center that offers support for the administrative fight against cross-border organised crime between border regions of Belgium, the Netherlands and Germany (North Rhine-Westphalia).⁸⁵ The center is founded on the basis of intergovernmental objectives of a Benelux action plan (Senningen 2013-2016) and its respective working group.⁸⁶

In the Euregio Meuse-Rhine, next to the Cross-border Information Points for cross-border workers, a cross-border employment service (*Service Grensoverschrijdend Arbeidsbemiddeling*, SGA) advice employers and job seekers on finding staff and work. The SGA has been set up in cooperation with the municipalities of Maastricht and Sittard-Geleen, the UWV (employment insurance agency in the

⁷⁹ See more at: <https://www.emric.info/nl>

⁸⁰ Publiekrechtelijke Overeenkomst – Grensoverschrijdende Buren-Ambulancehulpverlening. EMR Agreement was concluded between the Stadt Aachen, Städteregion Aachen, Kreis Heinsberg, and the GGD Zuid Limburg.

⁸¹ Deutsch-belgisches Abkommen über die dringende medizinische Hilfe / Rettungsdienst zwischen dem Land Rheinland-Pfalz und dem Königreich Belgien, May 2009.

⁸² Beschikking van het Comité van Ministers van de Benelux Economische Unie met betrekking tot het grensoverschrijdend spoedeisend ambulancevervoer.

⁸³ See more at: <https://euprevent.eu/>

⁸⁴ See more at: <https://www.cz.nl/zorgverzekering/buitenland/internationale-zorgpas>

⁸⁵ See more at: <https://euriec.eu/>

⁸⁶ EURIEC, 'An overview of findings and activities of the Euregional Information and Expertise Center in the project period from 2019 to 2021' accessed via: https://euriec.eu/wp-content/uploads/2021/11/Eindrapport1921-EURIEC_ENG.pdf, p. 2.

Netherlands), employer service point Podium24, Bundesagentur für Arbeit (German Federal Employment Agency), Jobcenter Städteregion Aachen, employer service point Parkstad (de Werkgeversservicepunten Parkstad) and the Flemish Employment Service (*Vlaamse Dienst voor Arbeidsbemiddeling en Beroepsopleiding, VDAB*).⁸⁷ More cross-border public employment services are established along the borders, mainly the Dutch-German.⁸⁸

In field of education, the Interreg-project (Euregio Meuse-Rhine) EMRLingua focused on strengthening euregional education and labour market by promoting the education of neighbouring languages and intercultural competences, internships and exchanges in the region. A coordination center awards labels to schools which are euregionally committed to these goals (*euregioprofiel scholen*). The center also focused on the creation and exchanging euregional teaching materials in multiple languages. In similar vein, between the Dutch-German border (Interreg Germany-Netherlands), a project 'euregional continuous learning line' (*Euregionaal Doorlopende Leerlijn*) focuses on cross-border education by designing exchange and internship programmes, a learning path which stimulates euregional competences and prepares students to work across the border with the aim of connecting skills and training profile to the Euregional labour market. As part of the Greater Region, the University of Liège and the University of Luxembourg cooperate with four other universities in the University of the Greater Region (Uni-GR).⁸⁹

Regarding public transport, a recent success has been the deployment of a three-country train (*Drielandentrein*) between Aachen (Germany), Maastricht (the Netherlands) and Liege (Belgium). Realising the train connection between the three countries was not without challenges. At first, the train was planned to start running in 2018. However, due to several obstacles regarding the implementation of software systems (European Train Control System), financial arrangements, technical requirements (voltages of the train), ticketing systems, and staff responsibilities and language requirements, the launch was delayed.⁹⁰ Eventually, the Drielandentrein started officially running in June 2024.⁹¹

The presence of these sectoral practices demonstrates the region's integration across various themes, from health to labour market, education, public transport and security. Although many projects and sectoral cooperation exist, there are still obstacles of administrative and legal nature persisting; such as recognition of qualifications and cross-border mobility of workers (for instance, healthcare workers⁹² and teachers⁹³), reimbursement of cross-border healthcare costs⁹⁴, internships and social

⁸⁷ See more at: <https://grenzarbeit.eu/nl/start/>

⁸⁸ M. Unfried, *Het 360 graden perspectief in de praktijk- Verdere ontwikkeling van Service Grensoverschrijdende Arbeidsbemiddeling (SGA)*, Maastricht: ITEM, 2022.

⁸⁹ <https://www.uni-gr.eu/en>

⁹⁰ Angelica Dumaya, Guy Dumoulin, Ylka Kolken, Behnam Lot, Jenna van Roover, 'Public Transportation in the Euregion Meuse-Rhine (student dossier)' ITEM Cross-border Impact Assessment 2023. Accessed via: <https://crossborderitem.eu/wp-content/uploads/2023/11/Grefrap23-D5-EN.pdf>

⁹¹ See more at: <https://over.arriva.nl/ons-nieuws/drielandentrein-start-vanaf-30-juni-2024/>

⁹² Lavinia Kortese, 'Setting up a Tri-Member State Paediatric Surgery Centre in the Netherlands, Germany and Belgium: The Cross-border Mobility of Paediatric Surgeons in the Meuse-Rhine Euregion' December 2018, accessed via: https://kinderchirurgie.mumc.nl/sites/kinderchirurgie/files/final_item-mumc_tri-member_state_paediatric_surgery_centre_nl-be-de_december_2018_v2.pdf.

⁹³ Susanne Sivonen, Dorien Coppens 'Legal and administrative obstacles in the mobility of secondary school teachers in the Euregio Meuse-Rhine (EMR)' January 2023, accessed via: <https://crossborderitem.eu/wp-content/uploads/2023/05/Final-Report-EMRLingua-Legal.pdf>.

⁹⁴ Sivonen, S., Kramer, S., & Unfried, M. (2021). Cross-border healthcare and the reimbursement of cross-border healthcare costs. b-solutions report.

security⁹⁵, and attendance of pupils in a school across the border⁹⁶. For these structural cross-border cooperations to function effectively, the FCBS Regulation could support these institutions and projects by enabling them to submit border obstacles to a dedicated cross-border coordination point for resolution.

3.1.2 Evaluation of the theme of European Integration

The current level of cross-border mobility and European integration in the Benelux-Germany case study is notably high. In terms of cross-border work, it ranks among the highest in the EU. The main destination countries for cross-border workers include the following states of this case study: Germany (378,000 in 2021), Luxembourg (212,000), the Netherlands (122,000), and Belgium (85,000). The Greater Region, which includes France, Belgium, Luxembourg, and Germany, is one of the largest macro-regions for cross-border movements, accounting for 23% of all cross-border workers in Europe. In Luxembourg, cross-border workers constitute 44% of the total workforce. This is a notable exception compared to the EU average, where only 1% of the total workforce comprises cross-border workers. In the Meuse-Rhine Region (the area between Belgium, the Netherlands, and Germany from the North Sea to the Euregio Meuse-Rhine), cross-border worker flows are also relatively high, making up about 8% of total cross-border work in the EU. Unlike other macro-regions, where flows primarily occur in one direction, the Meuse-Rhine macro-region is characterized by more two-directional commuting patterns, suggesting stronger similarities in living standards, economic development, socio-cultural factors (such as language), and structured cross-border cooperation.⁹⁷

The *b-solutions* initiative, which addresses border obstacles through funding and expert analysis, is relatively well-known and widely utilized throughout the Benelux-Germany area. In total, in this area (between the border of Belgium, Luxembourg, Germany and the Netherlands), 42 reports (from total of 169 of all cases) are made, of which 19 are from the German-Dutch border, having one of the highest number of cases compared to other borders in Europe (see Figure 13). The SOLVIT mechanism is also used by citizens and businesses in the studied area, presenting 15.9 % of total cases submitted, with Germany contributing to most of the cases in the area (see Table 3).

Regarding judgments by courts, several cases can be identified. On the European level, the EU Court of Justice has issued judgments regarding free movement rights (exercised in border regions) and frontier workers.⁹⁸ Notably, in the Benelux Union, the Benelux Court of Justice has jurisdiction

⁹⁵ Sivonen, S., Kramer, S., & Mertens, P. (2023). *Internships abroad cause health insurance problems*. b-solutions report. https://www.aebr.eu/wp-content/uploads/2023/12/121_Report_Maastricht_ITEM_CB-internships.pdf

⁹⁶ Sivonen, S., Unfried, M., Hovens, D., & Azhar, A. (2023). *Limitations in attending a school in a neighbouring country*. b-solutions report.

⁹⁷ Hassan, E., Siöland, L., Akbaba, B., Cinova, D., Gasperini, M., & Geraci, M. (2023). Annual report on intra-EU labour mobility 2022, Publications Office of the European Union. <https://data.europa.eu/doi/10.2767/560178m>.

⁹⁸ There are several examples. In C-591/17 Austria-Germany (where Netherlands joined), the Court of Justice found that a German car toll constituted indirect discrimination on grounds of nationality and is contrary to the principles of the free movement of goods and services. The judgment supported the legal problems identified by ITEM, that found that the proposed toll would penalise the inhabitants of (neighbouring) border regions in particular, including commuters and companies. In Case C-27/23, a reference for preliminary ruling submitted by Luxembourg, the Court ruled on the equal treatment of frontier workers and social benefits and tax advantages. See M. Unfried, B. Hamacher, ITEM Cross-border Impact

regarding regulations common to the three countries (the Benelux instruments) and their uniform interpretation. Similarly, as for the EU Court of Justice, the national courts can refer questions for a preliminary ruling.⁹⁹

On the national level, taking the example of the Netherlands of the Member States examined in this case study, several judgments have been issued too. Examples include a judgment on the Administrative Section of the Council of State in 2019¹⁰⁰ on indirect discrimination for non-Dutch nationals who carry out cross-border work in the Netherlands but, due to their nationality and absence of residence in the Netherlands could not access DigiD – a digital identity that is required to access, communicate and receive digital services with a range of Dutch governmental institutions (such as applying for income-related compensations).¹⁰¹ Another example involves a case concerning third-country nationals who are family members of EU cross-border workers. Following the ruling, these family members gain the right to work in the Netherlands without needing a work permit, deriving the free movement rights from their EU family member.¹⁰²

However, these cases—particularly those highlighted from the European and Dutch courts—pertain to violations of free movement rights and the internal market. According to the FCBS Regulation, these obstacles are outside the scope of those that can be submitted for review by the CBCPs. Although this could be considered a limitation, the added value of the CBCSs lies in the wider scope of addressing cross-border obstacles that do not constitute a violation of rights but rather hinder or interfere with the development of cross-border projects and services. These issues, while not strictly infringements of (EU) rights and perhaps not always admissible to courts or SOLVIT, could still be submitted for resolution pursuant to the FCBS Regulation.

It is also worthwhile to note that while internal market obstacles may not be submitted to the CBCPs, the resolution of cross-border obstacles would still facilitate the free movement rights and strengthen European integration and the internal market by improving the functioning of cross-border public services in cross-border regions. The number of *b-solutions* cases in this area indicates that multiple border obstacles are being encountered, highlighting the need for resolution of these issues. Another clear advantage of the FCBS Regulation over lengthy court rulings is its focus on resolving obstacles more quickly and adhering to specific deadlines.

3.1.3 Evaluation of the theme of Sustainable Development/Socio-Economic Development

In the absence of data, it is difficult to draw conclusions on the effects of the FCBS Regulation on sustainable and socio-economic development in the Benelux-Germany area. However, the estimation is that socio-economically there would be a positive development if obstacles were removed.

Assessment 2017: ‘The potential effects of the German car toll on border regions ‘ available via <https://crossborderitem.eu/en/cross-border-impact-assessment-2017-dossier-1-german-car-toll/>. Recently, in case C-27/23, a reference for preliminary ruling submitted by Luxembourg, the Court ruled on the equal treatment of frontier workers and social benefits and tax advantages.

⁹⁹ Find judgments at: <https://www.courbeneluxhof.int/nl/>

¹⁰⁰ See more at: <https://crossborderitem.eu/test-case-digid/>

¹⁰¹ *Ibid.*

¹⁰² Raad van State, ECLI:NL:RVS:2015:2506. 2015.

Due to the high level of cross-border mobility and cross-border cooperation, border obstacles are well-known in the examined area. This is described as a “paradoxical reality that the more cooperation and mobility occurs across borders and thus more integration across borders is stimulated, the more (legal) cross-border obstacles arise and become visible.”¹⁰³ For instance, in 2018, ITEM was asked to inventorise cross-border obstacles in establishment of a cross-border port area between Ghent (Flanders, BE) and Zeeland (NL), the North Sea Port. Although the research focused on the North Sea Port, many of the obstacles identified were found applicable to the entire South Netherlands-Flanders border area. The inventory collected obstacles in several areas, including business administration, cross-border work, recognition of qualifications, infrastructure, and environment.¹⁰⁴ The inventory illustrates that (merger of) businesses operating in border regions are subject to several cross-border obstacles that can hinder cooperation and the resulting economic benefits.

The earlier mentioned study commissioned by the Commission on the quantification of legal and administrative obstacles also addresses the spatial differences in economic effects.¹⁰⁵ At NUTS3 level in the territory of the Benelux and Germany, GDP losses were found to be from 7,665% up to 18,391%. The highest GDP losses were registered in the regions along the Dutch-Flemish border. When looking to the suboptimal use of agglomeration economies, important opportunities were registered for the entire Dutch-German border and Dutch-Belgian border. Agglomeration studies in border regions were, for example, also conducted by the CPB Netherlands Bureau for Economic Policy Analysis, also emphasising the regional differences. In the Netherlands, especially the regions of Zeeuws-Vlaanderen and South-Limburg have strong agglomeration opportunities.¹⁰⁶ It is also in these regions that the share of the cross-border workers in the regional labour market can total up to 5%.¹⁰⁷

Mainly sparked in Dutch border regions, there has been a growing focus on addressing and resolving border obstacles with Belgium and Germany. An administrative working group led by Mr. Donner (then the vice-president of the Council of State in the Netherlands) and Ms. Berx (the governor of Antwerp, Flanders/Belgium) recommended an approach to solving border obstacles by “do not adapt, but deviate” (*niet aanpassen, maar afwijken*).¹⁰⁸ This approach allows border regions to make targeted deviations from existing regulations to address specific bottlenecks rather than amending the entire regulatory framework. The rationale is that border obstacles often have only a regional scope, not legitimising an amendment of the national legislation as a whole. This mechanism proposed for resolving these border challenges closely resemble that outlined in the earlier ECBM proposal.¹⁰⁹ The work of this bilateral administrative group highlights a clear interest and need for legal instruments in

¹⁰³ M. Unfried, P. Mertens, ‘A coordination point in practice: the “Flemish-Dutch Schakelpunt” as a pilot for the Facilitation tool’ [Unpublished].

¹⁰⁴ Find the inventory at: <https://crossborderitem.eu/en/5840/>

¹⁰⁵ A. Caragliu, R. Capello, R. Camagni, et al., Quantification of legal and administrative border obstacles in land border regions, DG REGIO, European Commission, May 2017.

¹⁰⁶ CPB, De arbeidsmarkt aan de grens met en zonder grensbelemmeringen, Den Haag: Centraal Planbureau, 2016.

¹⁰⁷ CBS, Grensdata, <https://opendata.grensdata.eu/#/InterReg/nl/>.

¹⁰⁸ Verslag van de bestuurlijke werkgroep grensbelemmeringen, ‘Niet aanpassen, maar afwijken’ 20 October 2020, available via <https://www.rijksoverheid.nl/documenten/rapporten/2020/10/20/niet-aanpassen-maar-afwijken>

¹⁰⁹ M. Unfried, P. Mertens, ‘A coordination point in practice: the “Flemish-Dutch Schakelpunt” as a pilot for the Facilitation tool’ [Unpublished].

overcoming border obstacles. The evident shortcoming of the FCBS regulation is, therefore, the removal of the ECBM legal instrument.

3.1.4 Conclusions and recommendations from a Euregional perspective

The Benelux-Germany case study presents a region with a high level of cross-border mobility and cross-border cooperation. Several multi-governance frameworks and legal instruments across various sectors aimed at facilitating cross-border cooperation and overcoming border obstacles can be identified. However, despite these existing systems, there is no unified nor clear (political) process for resolving border issues. At the regional level of Flanders-the Netherlands, this is clearly the aim of the *Schakelpunt*. The FCBS Regulation could improve this situation across Benelux-Germany by streamlining the process and establishing in a dedicated cross-border region a single contact point. This would allow initiators to submit border obstacles for resolution, expanding the range of stakeholders who can initiate such actions beyond the current frameworks and establish a new obligation for Member States (via the Cross-border Coordination Points) to justify to the initiator their decision within certain deadlines whether to resolve the border obstacle or not.

The situation in the Benelux-Germany region provides the right pre-conditions for the success of the CBCPs. First, existing multilayered structures such as the Benelux Union and the pilot coordination point in Flanders (Belgium)-the Netherlands, the *Schakelpunt*, offer valuable opportunities to integrate and embed Cross-Border Cooperation Points within these frameworks. The *Schakelpunt* exemplifies the pressing need for a dedicated coordination point that can collect, analyse, and resolve obstacles in a specific border region. It shows that in the Benelux-Germany area, multiple bilateral coordination points across different border regions (or multilateral, such as in the Euregio Meuse-Rhine) could prove to be beneficial. If the FCBS Regulation would be adopted, it would also enhance the visibility, recognition and perhaps long-term sustainability of the *Schakelpunt* initiative.

While some Member States with established cross-border governance structures expressed scepticism about the coordination points as mere duplications and no added value (see Section 2.2), the *Schakelpunt* demonstrates an opposite conclusion. In designing the *Schakelpunt*, the Dutch and Belgian governments explicitly refer to it as their (potential) coordination point. This suggests that there is no duplication; instead, the coordination point can be integrated into existing structures, as explicitly noted and permitted by Article 4 of the FCBS Regulation. In this respect, it would be in line with the pilot *Schakelpunt* approach to have other Coordination points for the obstacles between NRW and the Netherlands, Niedersachsen and the Netherlands, Wallonia and the Netherlands, Germany with Wallonia, Germany with Luxembourg and Wallonia with Luxembourg. This is also mentioned by the Dutch government in their assessment of the EU proposal.¹¹⁰ The Dutch government is much in favour of the FCBS proposal and its design, especially because it is of the opinion that the current governance structures between the Netherlands and NRW, Niedersachsen and Flanders respectively can be addressed as proposed CBCP. The Dutch government therefore concludes: “The Netherlands is therefore also largely compliant with the obligations that follow from the proposal.”¹¹¹ This is

¹¹⁰ Parliamentary documents 2023, 22 112, nr. 3886, Fiche: Voorstel mechanisme belemmeringen grensregio.

¹¹¹ Ibid, p. 5.

especially true when it comes to the *Schakelpunt*, in the other cross-border institutionalised arrangements elements might need to be added to be able to fulfil all tasks as CBCP.

As discussed in this case study, while the Benelux-Germany area has several multilevel governances, bilateral, and local structures facilitating cross-border cooperation, a dedicated (single) point for the systematic collection, analysis, and resolution of border obstacles is missing. In this context, the FCBS Regulation offers significant added value, demonstrating its benefits even in regions with existing structures. In fact, the presence of these structures and instruments may enhance the effectiveness of the FCBS and the coordination points. This is because the FCBS Regulation does not establish a legal instrument for overcoming border obstacles — a limitation resulting from the removal of the ECBM tool from the proposal. In the Benelux-Germany area, this limitation is less pressing since there are legal instruments available via, for instance, the Benelux Union or bilateral treaties. Conversely, in border regions lacking both legal and governance tools, the FCBS Regulation can still provide substantial value by offering an institutional framework for coordination and a structured process for resolving border challenges. However, in these cases, the limitations of the FCBS Regulation will be more pronounced, as there will be no accompanying legal instrument to facilitate resolution.

The high level of interconnectedness and cross-border mobility in the region also leads to more exposure to border obstacles ("the more mobility occurs across borders, the more (legal) cross-border obstacles arise") and highlights the potential positive effects on socio-economic development for border regions and the need for sufficient tools in solving them. This is also shown in the activity of actors and citizens in the Benelux-Germany area in using existing EU-level tools, including the *b-solutions* and SOLVIT. Citizens and businesses can also refer questions and violations of their rights to EU, Benelux or national courts. The added value of the FCBS Regulation would be to expand the scope and provide a (faster) resolution in cases which do not constitute a violation of rights but rather hinder or interfere with the development of cross-border projects and services; cases which would be likely inadmissible to courts. Yet, while internal market obstacles may not be submitted to the CBCPs, the resolution of cross-border obstacles would still facilitate the free movement rights and strengthen European integration and internal market.

The CBCPs could also support the existing sectoral cooperation frameworks, like EMRIC and Euprevent in the sector of healthcare, and cross-border (Interreg) projects in eliminating obstacles. For these structural cross-border cooperations or projects to function effectively, the FCBS Regulation could support these institutions and projects by enabling them to submit border obstacles to a dedicated cross-border coordination point for resolution.

Finally, another met pre-condition for the success of CBCPs is the existence and involvement of research institutions with the expertise needed to analyse border obstacles and solve them within the CBCP structures. An example is the University of Hasselt and ITEM, as project partners of the Flanders-Netherlands coordination point, *Schakelpunt*. The Cross-border Information Points are also found to be important partners in this information provision and the identification of border obstacles.

3.2 Case study: France-Germany

Clarisse Kauber, Maëlle François (Euro-Institut)

3.2.1 Introduction to the cross-border region

The area under study is characterised by a high degree of interconnectedness, with the Rhine serving as the sole natural barrier. There is a multitude of cross-border institutions and initiatives currently in operation, along with a significant number of cross-border professionals. However, despite these developments, project partners, local communities, citizens and businesses continue to encounter new or persistent cross-border legal and administrative challenges. The signing of the Aachen Treaty in 2019 by the governments of France and Germany exemplifies the political will to enhance collaboration across the region.

We observe the French and German border regions included in multilateral supra-regional cooperation areas, namely the Greater Region (in yellow: Sommet de la Grande Région) and the Upper Rhine (in red: Conférence du Rhin supérieur).

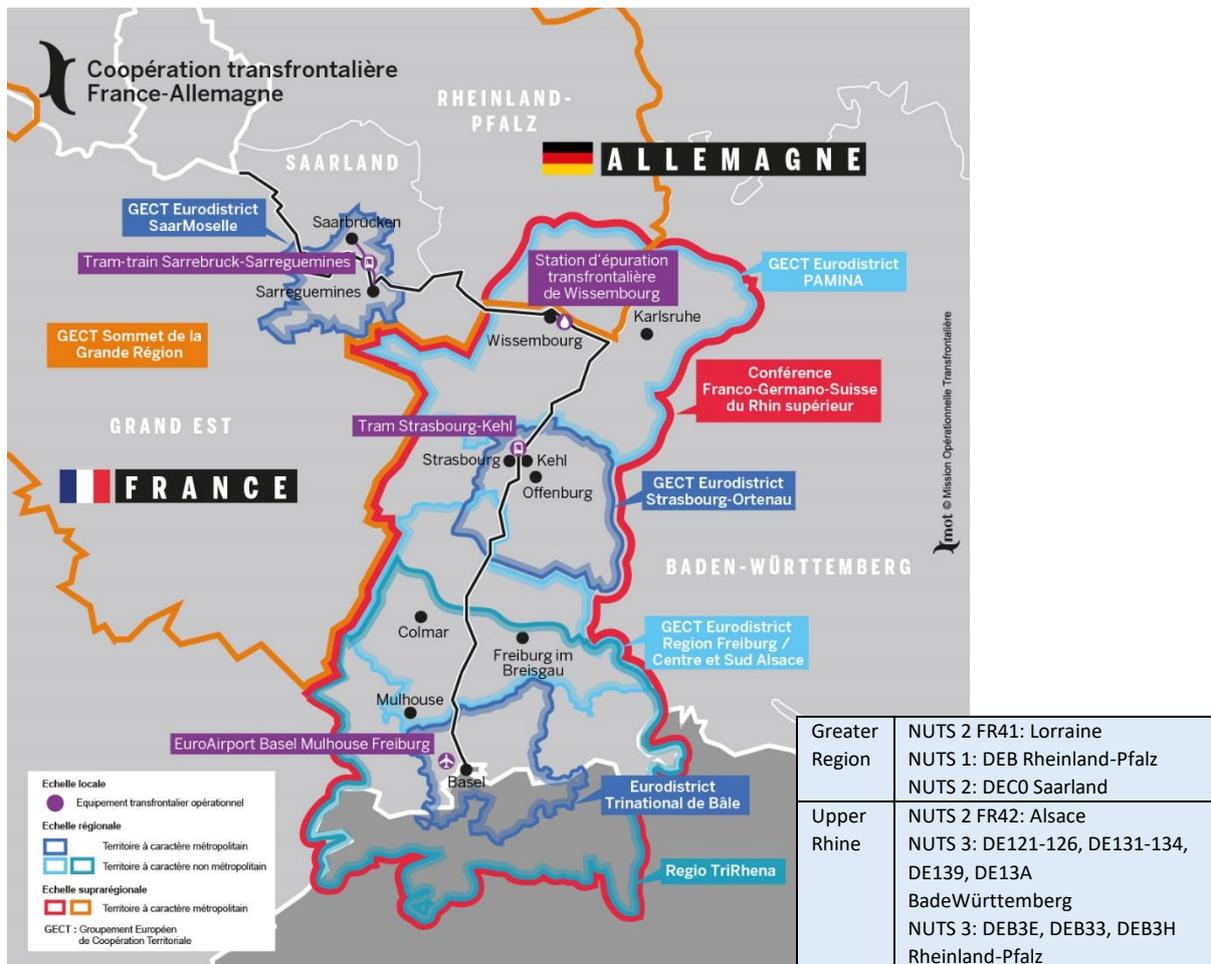


Figure 5: Border regions spanning across the French German and cross-border institutions at local, regional and supraregional level.

Source: Mission opérationnelle transfrontalière, Paris, 2021

3.2.2 Evaluation of the theme of Euregional Cohesion

The new regulation confirms that current practice at the French-German border is useful and could help other borders to develop their own potential with an example of sustainable cooperation. It can help to enhance the quality of cooperation at the French-German border if the new procedures don't disrupt established communication modes and if the new cross-border coordination points are integrated into existing bodies, working in a network with all experts and financed.

The new regulation will facilitate the prompt resolution of obstacles by the competent authority that may arise during the implementation of local projects, thus obviating the necessity for the elaboration of highly complex ad hoc solutions. The objective of this new regulation is to require Member States to provide a reasoned justification for their decision to remove or maintain an obstacle. This is not yet the case.

The monitoring of cross-border obstacles would be enhanced, with greater visibility at the national and European levels. Furthermore, in addition to the compendium of *b-solutions*, national monitoring would facilitate the establishment of a network between European countries and experts, thereby enabling the identification of how the competent authorities have responded.

A number of organisations are currently in operation in the Greater Region and the Upper Rhine, with the objective of facilitating and supporting cross-border cooperation.

At present, ten cross-border institutions and their members - state and local administrations- are engaged in efforts to address border-related challenges. These organisations are designed to respond to specific objectives within clearly delineated geographical and thematic areas. Furthermore, local communities are informed of the obstacles and redirect any queries to other organisations.

In addition, citizens and administrations already have public contact points to answer their questions. Seven structures and networks receive notifications of obstacles from civil society and from public authorities. However, only two are in a position to communicate directly with the relevant authorities.

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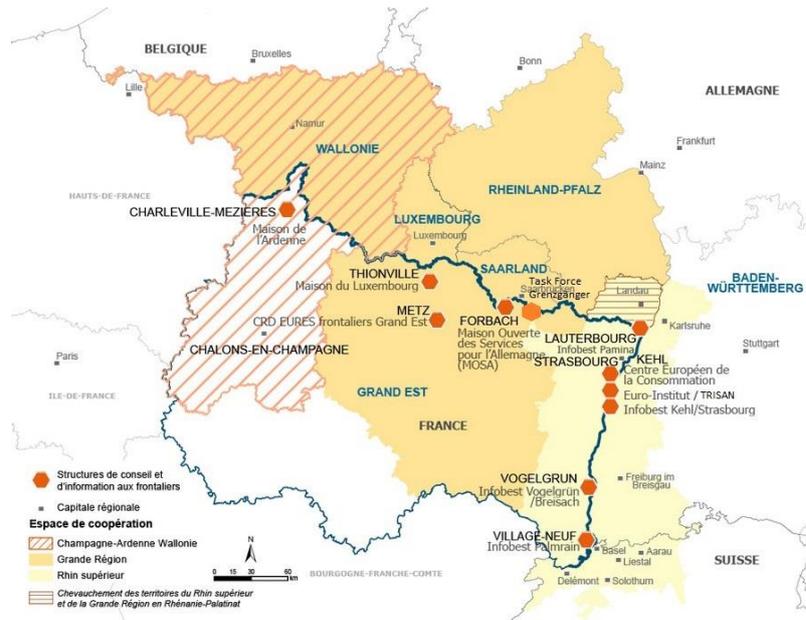


Figure 6: Map of the cooperation areas around the French Grand Est with the bodies of information about cross-border issues. Source: Region Grand Est + Euro-Institut

When those contact points or local communities are informed of a problem, they can turn to cross-border institutions, but it can take many years to get an answer from the competent authority. Bodies which analyse obstacles and are mainly supported by federated or national states, such as the Task Force Grenzgänger 3.0. Großregion (labour market), INFOBEST (daily life question) and the Zentrum für europäischen Verbraucherschutz e.V. (consumption), that have been incorporated into national and European networks (such as EURES-T and GrenzNetz), are better positioned to engage with state authorities directly and can also provide financial support to employees with legal expertise.

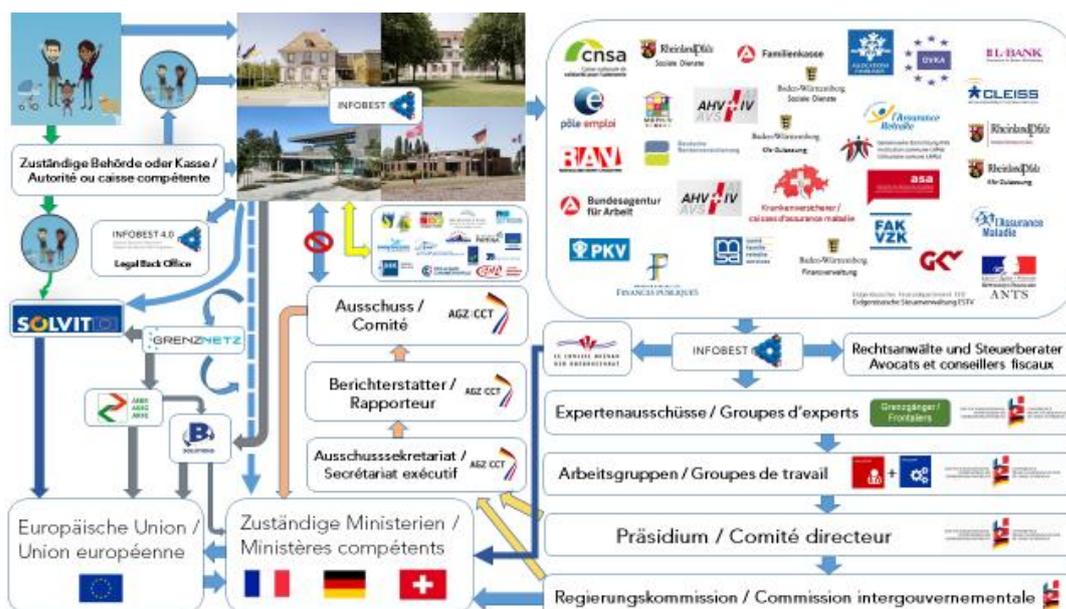


Figure 7: Slide on how obstacles are currently dealt within the Upper Rhine area, made by INFOBEST 4.0.

State administrations, in particular those with foreign affairs departments / federated states (Länder) / regional state services (Préfecture Grand Est), which sit in cross-border institutions, also possess the requisite expertise to analyse obstacles and engage in discussion with colleagues and partners within their respective countries. Indeed, the resolution of obstacles is primarily achieved through a comprehensive binational or multi-level analysis and long negotiations. A preliminary assessment by a neutral expert like the Euro-Institut can serve as a valuable foundation for subsequent dialogue between authorities, yet such an analysis is not frequently provided. Sometimes, a legal expert is necessary, overtimes it's important to first analyse the different causes of the obstacles, as different interpretations, administrative habits, technical requirements... and not always legislation. Additionally, members of parliament are capable of exerting influence over the legislative process and political power, thereby facilitating the resolution of cross-border obstacles.

In terms of subsidiarity, the Franco-German Cross-Border Cooperation Committee (AGZ/CCT), established by the Treaty of Aachen, addresses only those obstacles that its members¹¹² are unable to resolve otherwise and facilitates a multi-level dialogue. Presently, the CCT uses its administrative members ("rapporteurs") to document obstacles in summary sheets. These sheets detail the issues encountered and their underlying causes. This recently established procedure provides an update on the status of negotiations, and it appears to be a valuable tool. Nevertheless, the process of recognition of the relatively young CCT by the central ministries is time-consuming. Consequently, the **regulation FCBS could serve to legitimise the function of the CCT if similar bodies were present throughout Europe.**

¹¹² <https://agz-cct.diplo.de/agz-cct-de/die-mitglieder> (in German).

Institutions/organizations	Obstacles noted?	Obstacle analysis?	Obstacle resolution?
Oberrheinkonferenz (Upper Rhine Conference)	Yes, in working groups	Yes, in working groups and expert groups	Registration for the Upper Rhine Intergovernmental Conference Relay of the solutions proposed by the state administrations members of the groups to the central authorities
Oberrheinrat (Rhineland Council)	Yes, political feedback and echo from other cross-border bodies	No	Sending position papers to the competent ministries by the secretariat of the Rhine Council. Positions and responses published.
Gipfel der Großregion (Summit of the Greater Region)	Not their role, not done in a direct way either, does not correspond to their basic mission Information in working groups	Express request of its members, the EGTC Secretariat of the Summit of the Greater Region can analyse obstacles	Passage by other authorities: Task force Grenzgänger 3.0 / SOLVIT The chief executives who are members of the summit can lobby.
Interregionaler Parlamentarierrat + Wirtschafts- und Sozialausschuss Greater Region	Yes, in certain areas and depending on the political actuality	Yes, analysis then submission to the Summit, which then takes them up in working groups.	If possible, make proposals
Franco-German Cross-Border Cooperation Committee (CCT-AGZ)	Yes, by their members only. Registration in public reports	Yes, by their "rapporteur" members in the work plan	Yes, if possible, relying on members (deputies, ministries, prefect)
Eurodistricts (5)	Yes, they live them every day	Yes, depending on their capacity: in projects or as rapporteur to the CCT	Exchanges with other structures, Development of ad hoc solutions negotiated with local authorities when do not concern the national regulatory and legislative domain. Lobbying
Staatsministerium BW / Staatskanzleien RLP und Saarland	Yes, through CCT, Upper Rhine Conference or sectoral Ministries	As rapporteur to the CCT Interministerial coordination within each Land so that the analysis is carried out	Sending analyses and proposed solutions to the authorities. Use of the usual negotiation channels between Bund and Länder and/or registration in the CCT work program
Préfecture Grand Est	Yes, through CCT, Upper Rhine Conference or state administrations at local level	As rapporteur to the CCT in coordination with French local, regional and national bodies	Use of the usual dialogue channels with the authorities in Paris and/or registration in the CCT work program

Zentrum für europäischen Verbraucherschutz ZEV CEC (European Consumer Centre)	Yes, in the field of consumption, upon referral from consumers or Ministries	Yes, in the field of consumption: analyses published on the website and individualized responses	Yes, if possible, otherwise use others such as SOLVIT, CCT, etc. Exchange with the ZEV / CEC funding ministries, which could lead to a resolution.
EURES-T Oberrhein (network about cross-border labour market)	Yes, in the area of the labour market at the request of businesses and citizens	Yes, depending on capacity and shared with GrenzNetz network in addition to individual consulting activities	No, relay to the Upper Rhine Conference Discussions with authorities and lobbying
INFOBEST (network of 4 contact points)	Yes, in everything that concerns daily cross-border life	Yes, depending on capacity and shared with GrenzNetz network in addition to individual consulting activities current dedicated INFOBEST 4.0 project with a legal back office with the Hochschule für öffentliche Verwaltung Kehl	No, relay to the Upper Rhine Conference
Euro-Institut	Watch for obstacles	Yes, but only if mandated by a stakeholder Expert <i>b-solutions</i>	No, no access to authorities and no mandate Lobbying
TRISAN (a part of Euro-Institut)	Yes, but only on the topic of healthcare	Yes, on mandate of the working group "health" of the Upper Rhine conference. Analysing the legal, administrative, financial, processual and communication systems and processes on both sides of the border Establishment of information tools	Yes, when they can, they help set up cooperation agreements and develop possible solutions through dialogue between experts from the countries concerned
MOSA (Open House of Services for Germany)	Yes, but only depending on the subject they are working	Not really	No, relay to other institutions
Association Frontaliers Grand Est (border workers)	Yes, on some subject	Yes, in the legal field	Make lobbying and ask for help from other institutions
Task Force Grenzgänger 3.0 Großregion (border workers Greater Region, Saarbrücken)	Yes, in the area of the labour market, information by citizens or by cross-border authorities	Yes, provided that members prioritize it in the work plan, in the field of the labour market on a legal level mainly, national, European and international laws	Yes, if possible, also gives advice and solutions to resolve problems. Sending analyses and proposed solutions to the authorities.

Table 2: Role of cross-border stakeholders towards obstacles. White: cross-border institutions. Orange: states. Green: Support and advisory structures about cross-border issues. Source: Euro-Institut

Do the existing bodies/institutional structures differ from the proposed 'Coordination Points', and how? At present, no existing organisation is the sole contact point and the sole follower of an obstacle. As a result, due to the involvement of multiple parties, the obstacles are addressed by "everyone and no one". Some of the interviewees explained that the multiplication of actors tasked with addressing the same obstacles was not indicative of inefficiency but rather presented an opportunity to secure a favourable response from the competent authority. It is evident that the establishment of new coordination points would not suppress all other voices. Nevertheless, the current coordination is not sufficient at the French-German border, as each institution organises its own contacts with the authorities. Moreover, the draft regulation presents an opportunity for the creation of a **network** of bilateral or multilateral coordination points in each country and in Europe. This might enhance the visibility of border regions and the influence of coordination points at the national level.

The cross-border coordination point (CBCP) would serve as the main point of contact for initiators, assuming responsibility for all requests from initiators in their territory. The role of the CBCP differs from that of the bodies present on the Upper Rhine and Greater Region.

Currently, many institutions assure some coordination, analysis and dialogue with the competent authorities, like a CBCP would do, for individual obstacles. But they are dealing only with certain fields like labour market, everyday life, social insurance, health or with obstacles related by their members. Also, multilateral cross-border institutions in the Upper Rhine and the Greater Region are trying to find solutions; but they are not systematically working together.

The Franco-German Cross-Border Cooperation Committee is a sort of CBCP for the whole French-German region regarding the analysis, the coordination with the authorities and the monitoring of persistent obstacles. But currently, the CCT cannot be contacted by any initiator, only by its members (states, regions, eurodistricts) and in respect of subsidiarity. Moreover, without a legal form, the CCT has no budget and no manager, so it has to delegate the analyse and coordination to its members or other experts.

Not linked to the CCT, there are also many contact points for citizens and companies in specific fields and experts in such structures as Task Force Grenzgänger 3.0. Großregion, Zentrum für europäischen Verbraucherschutz or TRISAN explain that some specialisation and dedicated time is necessary to really understand the obstacles.

→ A French-German CBCP could be a unique coordination point for Upper Rhine and Greater Region and coordinate the efforts of the several experts. This would be facilitated through some financial resources, that are not quoted in the draft regulation. Most of the experts like INFOBEST, Euro-Institut or Frontaliers Grand Est have the capacity to analyse obstacles and propose solution but not dedicated resources for it.

→ But if it sticks only to the definition in article 3 of the regulation draft (infrastructure, public services), some obstacles might be excluded, if the member states have a strict interpretation.

→ A French-German, as well as French and German CBCPs, could set up a centralised monitoring of all the obstacles and have more political weight than the current institutions.

→ Another difference is the answer to the initiator. Today, there are many years between the information about an obstacle and the response of the authorities... and the first initiator is

mostly forgotten. The CBCP would have the duty to inform regularly the initiator otherwise than through the press and websites.

[Added value of the FCBS proposal on cross-border governance/addressing border obstacles](#)

The FCBS regulation provides a single, common procedure for addressing obstacles to cooperation. However, stakeholders tend to view the prospect of having a single procedure with scepticism, given the existing channels for dialogue and lobbying between bodies and political decision-makers. A significant number of German stakeholders in the cross-border region were adamant that subsidiarity should be upheld. Indeed, the FCBS regulation stipulates that inter-state measures should be employed in preference to the cross-border facilitation tool. (Art 8.5). An inter-state measure could take the form of the French-German Treaty of Aachen, which includes a section on cross-border cooperation or specific bilateral agreements on matters such as police, rescue services, apprenticeship and taxes.

Furthermore, the regulation stipulates the necessity of providing a detailed account of the obstacle in question, along with an analysis of its underlying causes and potential solutions, in a cross-border file. Such practices are already observed in some instances within cross-border institutions and interministerial meetings. Having a unique file, even if there is no obligation to fill out that file in cooperation with the other side, that could be shared and read in the same way by organisations and could be a considerable advantage. Currently, there is a lack of consistency in the description and understanding of files between different parties, so that the description of the obstacle can vary from an institution to another. Filling out this unique file requires expertise and time, as well as financial resources.

The most significant benefit is that a response will be required without the need to request it several times.

The regulation aims to introduce deadlines for responding to cross-border cases. The regulation imposes time limits in cases where national legislation does not. On the French side, the authorities are required to respond to requests within a two-month period, but this does not guarantee that the issue will be resolved within that timeframe. Conversely, on the German side, apart from the deadlines imposed by European regulations, no deadlines are specified. In the absence of a specified time limit at the national level, the draft regulation stipulates a period of two months for the initiator to provide clarification and six months to reach a conclusion regarding the existence of an obstacle. The advantage of setting deadlines is that it ensures a compulsory response, which may facilitate a faster resolution. However, some institutional stakeholders have observed that it would be unrealistic to go faster, given the necessity for political negotiations to allow for the requisite time and flexibility.

[Current level of cross-border cooperation across different sectors](#)

Thanks to Interreg programmes and administrative cooperation, numerous projects and initiatives at the supraregional level have been developed in the fields of research, environment, transport, culture, education and labour market. Other fields are in progress and require long-term cooperation: spatial

planning, family and social affairs and health, internationalisation of SMEs... In addition, common infrastructures and cross-border public services between neighbouring cities are not available everywhere. While some cross-border services are operational, including water supply, two French-German nurseries, three Stadtbahnen, police cooperation, cooperation between rescue forces, French-German job centres, and others, certain fields such as renewable energy supply, waste management, and telecommunications have yet to be more developed at the cross-border level. Consequently, these fields may require responses or even exemptions from the relevant authorities.

3.2.3 Evaluation of the theme of European Integration

The level of cross-border mobility and European integration is already considerable. It is expected that the FCBS regulation will initially have no direct impact on European integration. However, it may provide an opportunity to develop new cross-border public services and infrastructure more rapidly. To promote European integration and facilitate the operation of cross-border services and the infrastructure development, it would be necessary to implement exemptions in the border regions.

However, the persistent already analysed obstacles at the French-German border are mostly due to discrepancies between national legislation that impede cross-border mobility of individuals and businesses. Despite not constituting an infrastructure or public service as defined in Article 3 of the Regulation, France and Germany could include these obstacles, as the CCT already does. Alternatively, the coordination point could monitor them and redirect the inquiry to other instances, such as SOLVIT or the EU Administrative Commission for the Coordination of Social Security Systems.

The current level of cross-border mobility in the region

The territories situated at the French-German border in both the Upper Rhine and the Greater Region are characterised by a high level of interconnectedness, with a correspondingly elevated level of cross-border mobility in comparison to other cross-border regions.

The French-German border area shares a common natural environment: middle mountains (Vosges, Pfälzerwald, and Black Forest), rivers (Rhine, Saar). The density of roads in this region is comparable to that characterising the cross-border area between the Netherlands, Belgium and Germany.

Border	Length	Geographical obstacles	Population density	Cross-border functional areas	Commuter flows	TEN corridors	BC roads	Infrastructure quality
DE-FR 451 High	451 Km	River (Rhine): in the Upper Rhine No natural border in the Greater Region	Dense, significantly rural	Upper Rhine, Greater Region	High	Atlantic Corridor (7) Rhine – Danube Corridor (9)	n/a (very high density)	Too few bridges across the river Rhine. Train connections inadequate

Figure 8: European Committee of the Regions, Pucher, J., Schausberger, W., Weiss, J., The potential of closing the missing links of small scale infrastructure in Europe’s border regions for growth and employment – Recommendations for the way ahead, Committee of the Regions, 2016, <https://data.europa.eu/doi/10.2863/763863>, page 34.

The lack of three railway infrastructures in the Upper Rhine (Freiburg - Colmar, Rastatt - Roeschwoog – Haguenau, Mulhouse - Müllheim - Freiburg) and one in the Greater Region (Trier - Thionville - Metz) is a topic frequently discussed in cross-border institutions.

The French statistical office, the National Institute of Statistics and Economic Studies (INSEE), reports a total of 50 800 cross-border workers from France to Germany in 2020, while the observatories in the Greater Region and Upper Rhine estimate the number to be approximately 40 000, as some cross-border workers reside outside of the cross-border regions. The border closure at the beginning of the COVID-19 crisis has demonstrated that cross-border mobility cannot be reduced to cross-border workers alone. The border is crossed for a variety of reasons, including education, shopping, family and friends, health, public services, gastronomy, culture and sport.

The potential of the FCBS proposal in benefiting/fostering the free movement and cross-border mobility in the region

The monitoring conducted by the CCT indicates that, while some obstacles have remained consistent over time, solutions have been identified in select instances thanks to the engagement of cross-border institutions and state authorities¹¹³.

The persistent administrative obstacles in the Upper Rhine and the Greater Region pertain to social security, taxation, the recognition of qualifications, the posting of workers, and labour law. In such instances, the national law is mostly not in violation of European rules governing the internal market; however, it does conflict with the legislation of the neighbouring country.

The resolution of those obstacles would facilitate the free movement, but it mostly doesn’t fall within the scope of the FCBS regulation. The definition of the regulation is concerned exclusively with issues pertaining to ‘any item of infrastructure necessary for public or private cross-border activities; the

¹¹³ <https://agz-cct.diplo.de/agz-cct-de/dokumente> Arbeitsprogramme

establishment, the functioning or the provision of any cross-border public service in a cross-border region'. This definition still encompasses elements that present obstacles.

Some of the interviewed stakeholders expressed the opinion that the introduction of exemptions or ad hoc rules for border regions would be beneficial and regretted the absence of this aspect of ECBM in the FCBS. In any case, at the French-German border, the states could make use of the art. 13-2 of the Treaty of Aachen to implement such opening clauses, and the FCBS could serve as a means of adopting them in a more expedient manner. For example, as part of the SaarMoselle cross-border nursery Kita Salut, the partners discussed the issue of the recognition of diplomas. Ultimately, it has achieved the recognition for French qualifications in public nurseries of Saarland and can be useful for future projects.¹¹⁴

Another example that can be interpreted as 'any item of infrastructure for private cross-border activities' is the access to roads for car drivers. The state authorities in Baden-Württemberg have accepted to recognise the French environmental stamp in lieu of the German environmental stamp for French residents travelling to Karlsruhe and Freiburg. The French Prefecture opted not to recognise German environmental stamps, which have lower standards than in France. Both decisions were reached in 2022 following lobbying from diverse institutions (ex: resolution of the CCT 2021) and a *b-solutions* advice case (2019), which had proposed a mutual recognition.

The FCBS procedure represents a potential solution to reach such decisions in a shorter time. However, the cross-border mobility needs mostly political willingness and the provision of financial resources, with or without the FCBS. An exemplary practice is the political decision of the Region Grand Est and the German Länder Baden-Württemberg, Saarland and Rhineland-Palatinate to establish a summer ticket for individuals under the age of 28. The *Grenzenlos* (translation: without border) pass enables young people to travel by regional train around the border, at a fair price, regardless of nationality. Reciprocally, the monthly *Deutschland-Ticket* is valid in France for young people during the summer. This was achieved in a mere six months due to the favourable political climate and financial backing.

Cross-border Coordination Points in addition to existing EU-level initiatives

SOLVIT (see part 2.2) is not well known at the French-German border because citizens have other contact points for inquiries pertaining to the interior market (see above).

The *b-solutions* programme has been used in ten advice cases at the French-German border since 2020. In some instances, the *b-solutions* advice cases provide an opportunity for partners to engage in a comprehensive analysis of the underlying causes of the identified obstacles. But most of the time, the duration and funding, and sometimes the willingness, are not sufficient for a real constructive dialogue between all the stakeholders.

Further limitations of SOLVIT and *b-solutions* are that they are unable to compel member states and competent authorities to implement global solutions and that they don't organise the dialog between

¹¹⁴ Saarländisches Bildungs – Erziehungs- und Betreuungsgesetz (SBEBG), 19th January 2022. (law of federated state Saarland)

stakeholders. It is therefore evident that the new regulation should bridge the gap between analysis and the implementation of solutions.

It is also notable that the new regulation FCBS does not provide a specific budget yet, whereas both SOLVIT and *b-solutions* are funding expertise.

Examples of court cases against the Member States with respect to cross-border mobility

It is unclear whether the number of court cases initiated against Member States will decline. As a reminder, the free movement of workers, guaranteed by Article 45 of the Treaty on the Functioning of the European Union, is operationalised in Article 7(2) of Regulation (EU) No 492/2011.

Indeed, court cases have a positive impact on the evolution of legislation and procedures. For instance, some cross-border workers initiate legal proceedings against their employers in instances where the law has been violated (number of holidays, work duration, allowance of telework¹¹⁵, but also questions relating to taxation¹¹⁶...). It appears to intensify the pressure on administrative bodies and enhance the visibility of the issue. The necessity for legal proceedings could potentially be diminished if lawyers and citizens were better informed. To illustrate, there was a trial by the appeal court of Colmar (France) regarding the prohibition of remote work for a French national employed in Germany. In that specific case, the aggrieved worker should have pursued legal recourse in the German court rather than the French court.

Another example is the replacement allowances such as part (partial) unemployment benefits, parental care allowance¹¹⁷, maternity benefits and sickness allowance¹¹⁸. As a result of the obstacle, the amount of these benefits was less substantial for cross-border workers than for inland workers in Germany. Discussions between the French and German administrations were protracted, spanning many years. It was only following the initiation of legal proceedings that the parties in question were able to reach a resolution. This was despite the fact that the European Court of Justice had applied the principle of equality to social benefits¹¹⁹.

However, it should be noted that not all court cases fall within the scope of the FCBS regulation.

¹¹⁵ For instance: Cour d'appel de Colmar - ch. sociale sect. A, 24 mai 2022 / n° 22/498, https://www.dalloz.fr/documentation/Document?id=CA_COLMAR_2022-05-24_22498#

¹¹⁶ For instance: Weisung 202211012 vom 29.11.2022 – Umsetzung der BSG-Rechtsprechung zur Vermeidung der „Doppelbesteuerung“ von Kurzarbeitergeld für Grenzgänger*innen https://www.arbeitsagentur.de/datei/weisung-202211012_ba147744.pdf

¹¹⁷ For instance: Cour de justice de l'Union européenne - 2 avril 2020 - C-802/18, https://jurisprudence.lefebvre-dalloz.fr/jp/cour-justice-union-europeenne-2020-04-02-802-18_g1547538d-b820-4fce-9fb3-b2333a10921c?r=search&query=allocation+frontaliers&highlight=true

¹¹⁸ For instance: Arrêt du Tribunal social (SG) de la Sarre du 17.02.2022 (S 20 KR 133/20 : If there is no tax obligation in Germany, the sickness benefit is calculated without the deduction of a fictitious payroll tax.

¹¹⁹ For instance: Cour de justice de l'Union européenne – 02.04.2020 - C-802/18, https://jurisprudence.lefebvre-dalloz.fr/jp/cour-justice-union-europeenne-2020-04-02-802-18_g1547538d-b820-4fce-9fb3-b2333a10921c?r=search&query=allocation+frontaliers&highlight=true

3.2.4 Evaluation of the theme of Sustainable/Socio-Economic Development

The FCBS may assist in overcoming certain difficulties in the cross-border access to infrastructure for both citizens and businesses. Nevertheless, it is not possible to measure a concrete, positive impact on the business climate.

One of the primary factors contributing to the persistence of obstacles and administrative burdens for companies is the discordance between the interests of cross-border economic actors and those of national and even European public interests. Furthermore, the definition of cross-border interactions, which includes items of infrastructure and cross-border public services, does not explicitly address the obstacles to economic development.

Type of obstacles that could be removed by the proposal with relevant impact on the socio-economic situation

A number of factors, which have been widely discussed at the French-German border, impede socio-economic development. The following areas of concern have been identified:

- ✓ Administrative burden for companies that regularly post workers (due to the limited duration of postings, often only one day or one week, which may be linked to after-sales service)
- ✓ Labour market: social insurance, taxes, recognition of qualifications, lack of competent staff
- ✓ Entrepreneurship in the neighbour country
- ✓ Juridical questions and risks for staff working from home
- ✓ Cross-border waste management
- ✓ Health
- ✓ Rescue services
- ✓ Cross-border public transportation (infrastructure, pricing)
- ✓ Use of private cars in the foreign country (environmental stamps, car parks, electric charge of vehicles...)

One of the challenges is the result of disparate digital administrative procedures and cross-border transport infrastructure. These factors have a detrimental impact on cross-border interactions, as defined in Article 3(1).a of the draft regulation, which encompasses "any item of infrastructure necessary for public or private cross-border activities."

Some issues, such as the recognition of diplomas, the A1 form for workers crossing the border occasionally, and ticketing for public transportation, could be addressed through the establishment of a precise public service, which would indirectly benefit the staff and customers of companies. All administrations addressing workers and companies with cross-border activities could be considered as "cross-border public services" in the sense of "an activity carried out in the public interest to address joint problems or development potentials of border regions located on different sides of one or more neighbouring Member States' borders, provided it fosters economic, social and territorial cohesion in the cross-border territory¹²⁰" (article 3 (5) of the regulation draft).

However, some **persistent obstacles** can be attributed to the disparate implementation of the European Directive Service with regard to posting workers, as well as the discrepancy between social

¹²⁰ Article 3(5) of the FCBS Regulation.

protection standards and the practical realities of business operations in cross-border regions. Such matters **fall outside the scope of the FCBS draft regulation**.

Even if they were to be included in the definition, we don't think that the competent authorities would respond in any way that deviates from their established approach, given that they have already been analysed, described, monitored and discussed with the relevant authority. While a solution has been achieved on occasion¹²¹, it has not always been the case, as the authorities gave a negative answer to the proposed solutions.

Estimation on positive socio-economic development in case border obstacles are solved for both citizens and businesses

The cross-border activities of German companies have decreased over the past decade. In discussions with Chambers of Commerce and Handcraft, companies have highlighted the significant administrative burden and the considerable differences in regulatory norms in France as key factors limiting their cross-border activities. It has been suggested that if companies settled at the border could more easily engage in cross-border activities, it would enhance their competitiveness.

The greatest benefit of overcoming obstacles due to administrative burdens would be the time saver. In some cases, this could result in **significant cost savings**. Indeed, in order to avoid cross-border procedures, some companies have one office in France and one in Germany. However, other companies choose not to expand their activities in neighbouring countries. For handwork businesses located at the border, there is a notable decline in turnover, as their operational area is halved.

The implementation of cross-border public services at a faster pace and the overcoming of current difficulties in cross-border access to infrastructure would be beneficial to citizens. These difficulties include the existence of two digital platforms, the lack of compatibility between car- and bike sharing systems, the non-recognition of invalid cards in car parks and public transportation, the non-recognition of environmental stamps, the necessity to purchase two separate tickets, and the lack of information about public services in foreign languages. These obstacles result in additional costs and time for citizens residing in border regions.

3.2.5 Conclusions and recommendations from a Euregional perspective

The FCBS regulation would legitimate the current practice at the French-German border to analyse obstacles and address the competent authorities, and improve the coordination. It can help to enhance the quality of cooperation at the French-German border, provided that the new procedure respects the subsidiarity and does not disrupt the established communication channels. In this region, an official French-German coordination point working in a network with all the experts of the Greater region and the Upper Rhine is more useful than a national coordination point. The people and stakeholders in the French-German region would not use a unique national coordination point in Paris or Berlin, like in the

¹²¹ Social insurance in case of teleworking, duration of the French "Carte BTP" for German construction companies

case of SOLVIT. On the other hand, the advantage of a national coordination point would be the monitoring and the possibility of settling up common solutions for several borders.

The establishment of national and bilateral cross-border coordination points in several European countries would give more influence on the existing cross-border institutions, particularly to the Franco-German Cross-Border Cooperation Committee (CCT), in the dialogue with the authorities. Indeed, the authorities would have the duty to respond and provide an explanation for the decision following the reception of a joint analysis of the obstacle.

The new coordination points at national and cross-border levels, should be integrated into existing bodies and would certainly not delete all the other voices; they should even communicate with cross-border experts. Moreover, there would be an opportunity for the establishment of a network of bilateral or multilateral coordination points first at the national level and then in Europe. It would go further as the compendium of *b-solutions*, with monitoring mechanisms in place to follow up on the responses of the states. In instances where solutions are identified for a particular border in a multilateral cross-border region, such as the Upper Rhine or the Greater Region, it may be possible to extend these solutions to other borders. While Switzerland is not currently within the scope of the FCBS regulation, there is a possibility that, in the long term, should the regulation prove to have positive effects in Europe, Switzerland may decide to introduce a similar regulation or at least to communicate with the coordination points in EU countries.

The draft regulation does not address the financial aspect. The French-German experience, as well as the European programmes *b-solutions* and SOLVIT, demonstrates that the analysis and resolution of obstacles require a significant investment of time, personal resources, and, in some instances, external expertise. Interreg A is not a convenient instrument for even long-term needs, such as the recruitment of a legal professional or a quick analysis like an advice case. Moreover, current impediments to the development of cross-border infrastructure between France and Germany pertain to financial resources, political willingness, priority setting and not to legal considerations.

The FCBS respects the sovereignty of states, and thus it cannot be guaranteed that all obstacles will be overcome. It is regrettable that the exemption clauses inserted in the draft regulation ECBM are no longer included. However, states that wish to implement such opening clauses may do so if they so decide, and France and Germany have already provided for this possibility in article 13.2 of the Treaty of Aachen. The FCBS procedure could facilitate the implementation of such exemptions more rapidly if they were proposed by the initiator with the assistance of cross-border experts and discussed with all the stakeholders of both countries.

The FCBS regulation will initially have no direct impact on European integration and socio-economic development. However, it may offer an opportunity to develop faster or further new cross-border public services and infrastructures. Many of the obstacles encountered at the French-German border fall outside the scope of the draft FCBS regulation (social security, posting workers, diploma recognition in the private sector...). Nevertheless, the resolution of these obstacles would also require a common procedure, faster reasoned responses from the authorities and enhanced coordination. In any case, states are entitled to take action beyond that prescribed in the regulation. We therefore recommend that initiators who send descriptions of obstacles to the coordination point should not be restricted, and that they should at least be provided with guidance. This could represent the

opportunity for a real monitoring of the cross-border bottlenecks that could otherwise not be solved by local stakeholders themselves.

As a conclusion, we recommend to France and Germany to vote the regulation and to engage in discussions regarding its practical implementation at each border, taking into account the existing expertise of the cross-border and regional institutions.

Sources:

The following institutions provided inspiration through semi-directed interviews:

- Task Force Grenzgänger 3.0 Großregion
- EURES-T Oberrhein
- Eurodistrict Saar Moselle
- Eurodistrict PAMINA
- Europäischer Verbraucherzentrum CEC – ZEV (European Consumer Centre)
- CCT – AGZ (Franco-German Cross-Border Cooperation Committee)
- EVTZ Sekretariat des Gipfels der Großregion (Summit Secretariat of the Greater Region)
- Staatskanzlei Rheinland-Pfalz (Central Department of federated German State Rhineland-Palatinate)
- Staatsministerium Baden-Württemberg (Central Department of federated German state BW)
- Wirtschaftsministerium Baden-Württemberg (Ministry of Economy of federated German State BW)
- Ville de Mulhouse (French city council in the Upper Rhine)
- Auswärtige Amt (German Federal Foreign Office)
- Bundesministerium des Innern und für Heimat (German Federal Ministry of the Interior)
- Ministère de l'Europe et des Affaires étrangères (French Ministry for Europe and Foreign Affairs)

The Euro-Institute organised on 04/07/2024 in Kehl (Germany) a seminar on the subject of overcoming obstacles. The present reports draw upon the discussions, as well as the presentations of Infobest, the Oberrheinkonferenz (Upper Rhine Council), and TRISAN.

Additionally, the report references the websites of the aforementioned institutions, as well as SOLVIT, *b-solutions*, Interreg Upper Rhine, Interreg Greater Region and the Oberrheinrat (Rhineland Council).

Other statistical and legal sources are directly quoted in the report.

3.3 Case study: Czech-Polish borderland, specifically the Czech and Polish part of the Euroregion Neisse-Nysa-Nisa (ERN)

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Joanna Kurowska-Pysz (WSB University, Poland)

Ondrej Havlíček (Euroregion Nisa, Czechia)

3.3.1 Introduction to the cross-border region

The Euroregion Neisse-Nysa-Nisa (ERN)¹²² has operated in the trilateral border area between Czechia, Germany, and Poland since December 1991. The founding agreement resulted from cooperation during the euphoria after the fall of the Iron Curtain, making it the first cross-border grouping to involve members from post-communist countries.

Figure 9 – Localisation of the ERN¹²³

Euroregion Neisse-Nisa-Nysa



The Euroregion consists of three associations of independent legal entities (Czech, German and Polish municipalities, cities, districts, and other self-governing entities and other institutions operating in a given territory) whose objectives and general form arise from the joint founding document, the Framework Agreement for the ERN. This founding document states that the Euroregion strives to create a shared, diverse space for CBC on its territory. It seeks to improve the exchange of information,

¹²² More information: <https://www.euroregion-nysa.pl/index.php/pl/>

¹²³ Source: Czech Statistical Office - <https://csu.gov.cz/lbk/o-euroregionu-nisa>, www.ern.cz

cross-border communication, processing, and prioritisation of the development of the Euroregional area. The increasing cooperation covers the sphere of culture, tourism, and economy.

ERN is not a cultural borderland with a cross-border regional identity where the cultural patterns mix and weaken national identity. Cultural borderland epitomises intensive intercultural interactions of economic origin covering different levels of social life: social circles and groups, families, enterprises, local governments, and state administration. Social and cultural interactions in the ERN are limited because of the language barrier, significant economic differences and national stereotypes or historical traumas. ERN can be defined as an economic borderland. The existing wage differences make the German labour market attractive for Poles and Czechs and cause considerable cross-border flows. To some extent, there are also flows of Poles working in Czechia. The wage asymmetry does not fully relate to the prices of estates or food. Many Czechs and Poles live in German border cities Zittau and Görlitz, which have good transport connections to their homelands and attractive job opportunities in Germany. Shopping tourism in the ERN is frequent.

Studying the ERN is a challenging exercise. From a Polish-German perspective, the Pomerania, Pro Europa Viadrina and Spree-Neisse/Nysa-Bobr Euroregions are seen as less top-down and more agile¹²⁴, or maybe simply more studied¹²⁵, whereas from the Czech-Polish and German-Czech perspective, the ERN belongs amongst the more¹²⁶ or medium-integrated ones¹²⁷.

The most common explanation - for a high perception of the ERN among Euroregions with Czech participation - argues that the ERN implements its projects, operates cross-border working groups (called EUREX) and administers the Small Project Fund supporting cross-border micro-projects co-funded by the Interreg Programme. In contrast, most Czech associations that constitute Euroregions in Czechia do not implement their Interreg-funded cross-border projects or have working groups. On the Polish side, the associations constituting Euroregions are more active in terms of their own cross-border projects (e.g. Olza Association). However, they are more focused on micro-projects supporting cross-border integration of the societies within the Euroregional areas and strengthening cross-border relations among local players. Individual Euroregions do not have sufficient capacities to identify and solve the problems related to cross-border obstacles across the Czech-Polish border.

¹²⁴ More information: Sarmiento-Mirwaldt, K., and U. Roman-Kamphaus. 2013. Cross-border Cooperation in Central Europe: A Comparison of Culture and Policy Effectiveness in the Polish–German and Polish–Slovak Border Regions. *Europe-Asia Studies* 65, no. 8: 1621–41.

¹²⁵ Martín-Uceda, J., and J. Jańczak. 2018. A View of German-Polish Cross-Border Cooperation: An Experience from the 2007–2013 Interreg Programme. *Pogranicze. Polish Borderlands Studies* 6, no. 3: 229–51.

¹²⁶ Pászto, V., K. Macků, J. Burian, J. Pánek, and P. Tuček. 2019. Capturing Cross-Border Continuity: The Case of the Czech-Polish Borderland. *Moravian Geographical Reports* 27, no. 2: 122–38.

¹²⁷ Pászto, V., K. Macků, J. Burian, J. Pánek, and P. Tuček. 2019. Capturing Cross-Border Continuity: The Case of the Czech-Polish Borderland. *Moravian Geographical Reports* 27, no. 2: 122–38.

3.3.2 Evaluation of the theme of Euregional Cohesion

Does the FCBS Regulation help to enhance the quality of cross-border cooperation?

It helps, especially in regions without firmly established and functional structures of cross-border cooperation organisations. In places with functional and high-quality cross-border institutions with a long tradition, it can be a new impulse or catalyst that speeds up processes.

It also helps to identify social, economic, and environmental fields where current obstacles and barriers hinder the development of cross-border cooperation or generate asymmetry in cooperation. It is proven that cross-border cooperation develops much better in fields where such barriers do not occur, e.g., culture. In other fields where such barriers are noticeable, e.g., cross-border public services in transport, cross-border cooperation is relatively weak or doesn't exist.

Existing bodies and/or institutional structures address border obstacles in the region currently

Within the Euroregion Neisse-Nisa-Nysa, which is based upon the cooperation of three legal entities (Euroregion DE, PL and CZ), the institutional structure is working as follows:

The Board of the Association is the highest cooperation body. The Council decides on the activities of the Association, especially its other bodies, or on the establishment and method of management of joint financial funds and the conditions for their use.

The Presidium of the Association is the decision-making and representative body between the meetings of the Council. The Presidium of the Association consists of the chairmen or presidents of its members.

The Joint Secretariat of the Association is the administrative and coordinating body. It comprises a consilium of three secretaries/directors who represent the participating members and have full power to perform their functions. The Secretariat coordinates the activities of all bodies and committees and takes care of matters related to the bodies of the Association.

Euroregional expert groups (EUREX) are cross-border bodies/working groups that contribute professionally to the development of Euroregional cooperation. They follow Euroregional priorities, propose new necessary professional objectives, and prepare recommendations for the Council, Presidium, and Secretariat.

The areas of activity of the EUREX working groups are defined by the Euroregion Strategy¹²⁸ and they include as follows: A. Transport, B. Economy and tourism, C. Environment, climate and energy, D. Risk management, health and safety, E. Culture, sport, education and knowledge, F. Promoting cross-border cooperation.

It also addresses cross-border barriers (often within the Euroregion working groups) in their topical focus, which include medical facilities, police forces, fire brigades, chambers of commerce and industry, universities (Academic Coordination Centre—ACC¹²⁹), etc. However, one cannot discuss systemic monitoring and subsequent removal of cross-border cooperation obstacles.

¹²⁸ More information: Strategie Euroregionu Neisse-Nisa-Nysa 2021-2027, <https://www.ern.cz/files2/publikace/strategie-ern-%20final%20CZ-4.pdf>

¹²⁹ More information: <https://www.tul.cz/spoluprace/akademicke-koordinacni-stredisko/>

In the case of Euroregion Nisa, the euro-regional multi-level governance structure partially overlaps with another cross-border cooperation structure, the Association of Municipalities "Little Triangle." It includes the mayors and councillors of Bogatynia (Poland), Hradec and Nisou (the Czech Republic), and Zittau (Germany)¹³⁰. The association of three geographically neighbouring municipalities was established to provide a platform to collaborate daily with other local actors on each side of the border to agree on joint undertakings and face trilateral challenges together. This small-scale collaboration supports cross-border cooperation and integration within the Euroregion Nisa while implementing small projects under the framework of the Interreg Programme. In the area covered by the Interreg the Czech Republic – Poland, the Small Projects Fund is administered by the Euroregion Nisa, which makes the connection between these bodies even firmer. This cross-border cooperation structure is partially focused on overcoming and mitigating the obstacles in cross-border cooperation but only in the Czech-Polish-German collaboration covered by this trilateral collaboration of local governments.

Another cross-border body that partially overlaps the Euroregion Nisa is the European Group of Territorial Integration NOVUM¹³¹, which involves actors operating under the umbrella of the Euroregion Nisa, i.e. the actors representing the Czech and Polish parts of the Euroregion. The EGTC NOVUM is geographically a relatively large-scale initiative established to intensify, facilitate, and promote Polish-Czech cross-border cooperation and strengthen the economic and social cohesion of an area extending far beyond the Euroregion Nisa, covering approximately half of the Czech-Polish border. Its members are self-administrative regions – the Lower Silesia in Poland and Czech Liberec, Hradec Králové, Pardubice and Olomouc regions. To a certain extent, it also deals with cross-border obstacles; however, like the example mentioned above the Association of Municipalities, "Little Triangle" also focuses only on the area it covers.

Do the existing bodies/institutional structures differ from the proposed 'Coordination Points', and how?
In contrast to the coordination points, there is no clear structure for the bottom-up transmission of suggestions in the administrative/legal process.

The Association of Euroregions of the Czech Republic¹³² and the Federation of the Euroregions of the Republic of Poland¹³³ are more suitable carriers for implementing coordination points than individual Euroregions. It is advisable to involve them as suggestion collectors, but these associations are offered as a central processor, which can further pass on suggestions higher up in the administrative structure.

However, in 2024 the Association of Euroregions of the Czech Republic – following the initiative of the Euroregion Nisa - launched the project Setting up a system for identifying administrative and legal obstacles to the development of cross-border cooperation. As the project title suggests, it was inspired by the *b-solutions* initiative and an attempt to introduce the European Cross-Border Mechanism. Its goal is directly in line with the Czech Regional Development Ministry strategy, and one of its outcomes should be the actual establishment of the "obstacles-removing observatory" within the Czech Ministry.

¹³⁰ More information: <https://bogatynia.pl/zwiazek-miast-maly-trojkat/#https://bogatynia.pl/zwiazek-miast-maly-trojkat/>

¹³¹ More information: <https://www.euwt-novum.eu/>

¹³² More information: <https://asociaceuroregionu.cz/>

¹³³ More information: www.federacjauroregionow.eu

[What added value does the proposal bring on cross-border governance/addressing border obstacles?](#)

It brings a clearly defined structure, a defined process and pathways. Input carries more weight if it is delivered within an anchored structure set out in rules by the State/EU. It provides new opportunities to identify and address potential legal and administrative barriers in cross-border cooperation on particular borders. However, one should be aware that besides these barriers, many others exist that can't be mitigated by administrative processes. They are economic and social barriers to cooperation, which cross-border actors can only overcome by themselves. Moreover, we observed that the level of advancement of cross-border collaboration correlates with the awareness of cross-border cooperation barriers. The borderlands, characterised by the relatively low level of maturity of cross-border cooperation, identify fewer obstacles in cross-border cooperation than the borderlands, where cross-border cooperation is better developed, very dynamic and comprehensive.

[How many bodies currently address border obstacles in the region?](#)

See above. The Euroregion (Neisse-Nisa-Nysa), its working groups, and other institutions often within the working groups of the Euroregion: Medical Facilities, Police Forces, Fire Brigades, Chambers of Commerce and Industry, Universities (Academic Coordination Centre – ACC), etc.

As mentioned above, to a certain extent, the issue of barriers in cross-border cooperation is a subject of activities conducted by the Association of Cities "Little Triangle", EGTC Novum as well as the Association of Czech Euroregions and the Federation of Polish Euroregions. The above-mentioned project of the Association of Czech Euroregions seems the most promising.

[Contribution to cross-sectoral cross-border cooperation - Level of cross-border cooperation in different sectors](#)

The level of cross-border cooperation varies considerably between sectors. Some (libraries, statistical offices, veterinary offices, firefighters, ambulances...) cooperate intensively and elsewhere the level of cooperation is lower. Often, the level of cross-border cooperation depends on whether the sector is currently facing a significant obstacle (e.g. floods, COVID-19, the situation around the Turów mine) or whether it is just taking advantage of the opportunities offered by the sector, but there is not such a strong pressure to solve problems together.

Another criterion differentiating cross-border cooperation is the possibility of gaining financial support (subsidies) from European Funds, e.g., Interreg the Czech Republic—Poland (both regular and small projects), as well as other international, national, and local funds. The fields of cross-border cooperation that can be financially supported by the Interreg Programme characterize more dynamics and attract new cross-border partnerships. In contrast, the fields ineligible in financing by the Interreg Programme, i.e., cross-border entrepreneurship, do not develop as dynamically as those mentioned above.

The reality is that the entities and areas of cross-border cooperation that can be financially supported by subsidies are far more developed than those ineligible. Therefore, we observe that cross-border cooperation in the public and social spheres is better developed than in the economic sphere, e.g., cross-border entrepreneurship.

The reason is that cross-border cooperation between Czech and Polish entities in Western Europe is not as advanced as cross-border cooperation. In many cases, it is still mainly subsidies-driven, meaning partners focus more on current projects and their outcomes than long-term cooperation.

3.3.3 Evaluation of the theme of European Integration

Does the FCBS Regulation promote or impede European integration, and what does that mean for the citizens of the cross-border region?

It is unequivocally supportive because it allows problems to be solved together in a clearly defined way, with the knowledge that competent people address the initiative. This fosters a sense of shared space (where we solve problems together) and supports building mutual trust.

Regarding the Czech-Polish borderland, particularly the Euroregion Nisa, we can identify many legal/administrative barriers that could be mitigated or overcome with such a mechanism. There are still obstacles in various areas, such as the problematic railway connection Zittau – Hrádek through Poland (when trains are not allowed to stop on the Polish territory), border controls introduced randomly, especially when entering Saxony, language barriers, differences in legislation (e.g. construction law), etc.

However, we also identify one crucial factor still missing – a willingness to focus on this issue since other challenges seem more critical for cross-border actors, e.g., investments and soft projects, which the Interreg Programme can financially support.

Current level of cross-border mobility in the region

The region's cross-border mobility is high and increasing. As mentioned previously, this is an economic borderland, which means that differences between salaries and prices of goods and services, as well as specific assets available in individual parts of the borderland, attract citizens of the borderland and create cross-border flows and mobilities.

For example, in the cross-border labour market, we can identify a one-directional flow from the Czech Republic and Poland to Germany (and another less distinguished flow from Poland to the Czech Republic). On the other hand, in terms of shopping, we can identify a one-directional flow from the Czech Republic and Germany to Poland (and another less distinguished flow from Germany to the Czech Republic). Regarding tourism, we can identify generally balanced cross-border flows among all three parts of the borderland. Moreover, many companies also operate across borders.

How would the FCBS Regulation benefit/foster the free movement and cross-border mobility in the region?

Barriers to free movement can be clearly defined and addressed by relevant actors with the competence to resolve them as part of an anchored process. Eventual ECBM adoption would most likely help to increase possibilities of cross-border public transport connections and reduce the need to use cars.

What does the FCBS Regulation on establishing Cross-border Coordination Points add on existing EU-level initiatives?

It clearly defines one specific contact point that is respected from below (by those who submit suggestions) and from above (by those who take over and resolve the suggestions), mixing thus both bottom-up and top-down approaches. An ongoing project of the Association of Czech Euroregions attempts to identify a suitable model of the institutionalisation of the Cross-border Coordination Points.

Number and quality of court cases against the Member States with respect to cross-border mobility

We are unaware of the number, but not many, if any. There was a highly medialised case of the Czech-Polish dispute related with the continuation of coal mining in the Turów lignite coalmine, but this has not focused on mobilities (but worsening of cross-border relations to a minor level curbed the extent of cross-border interactions.)

3.3.4 Evaluation of the theme Sustainable/Socio-Economic Development

Does the FCSB Regulation promote or impede the sustainable economic development and business climate in the cross-border region?

The measure supports the economic development of the area. We cannot quantify the specific impact, but in addition to strengthening mutual trust, there will also be a clear economic impact. A study by the University of Politecnico di Milano (2018): 'Quantification of the effects of legal and administrative border obstacles in land border regions' estimates that border regions could be 8% richer if all current barriers were removed and all inhabitants spoke the same language¹³⁴.

What type of obstacles could be removed by the FCBS Regulation with relevant impact on the socio-economic situation?

First, it can eliminate administrative barriers and ease access to services, particularly public services, without restrictions and limits set by borders. They can also solve problems with mistrust (joint solution of common problems vs. dependence on foreign entities without information about the situation). In general, it will help to solve common problems when applying cross-border cooperation (and take advantage of common opportunities).

In crisis situations, a mechanism like ECBM could contribute to creating effective cross-border communication channels and provide a foundation for ongoing cross-border consultations in sensitive topics such as Turów. A place-based approach and participatory approach should be implemented, and this requires the removal of barriers related to differences in administrative procedures.

Similarly, recent examples of flooding on the PL-CZ border have shown that communication in crisis situations is often not effective enough, and this needs to change.

¹³⁴ More information: Capello, R., Caragliu, A., & Fratesi, U. (2018). Measuring border effects in European crossborder regions. *Regional Studies*, 52(7), 986-996

What is the estimation on positive socio-economic development in case border obstacles are solved for both citizens and businesses?

As seen above, it is complicated to provide a precise estimate, yet the measure should increase the level of mutual trust and economic growth.

Is there an economic benefit, e.g., for companies operating in the cross-border region, if there is better access to solve border obstacles?

A better approach to dealing with barriers means more barriers are resolved, and there is more trust in the capabilities of borderlands to address barriers caused by the national border effectively. This will certainly lead to reduced costs, increased efficiency, and easier access to other markets, etc.

Companies operating on both sides of the border face many challenges related to differences in administrative procedures and business management rules. If such differences and obstacles were mitigated, it could generate savings of time and costs spent on business administration and might generate higher profits.

Are there specific benefits linked to sectors where obstacles are very persistent (i.e. energy, labour market, health, etc.)?

Yes, e.g., in health care (generally in the realm of emergency services), the setting of conditions for cross-border cooperation/interventions, etc., is often blocked by mutual incompatibilities (legal and administrative obstacles). A clear definition of obstacles and setting a structure for solving them can be an impulse that will help to remove such barriers, at least partially.

3.4 Case study: Austrian and Hungarian suburban region of Bratislava

Gyula Ocskay, Katalin Fekete, Teodor Gyelnik (Central European Service for Cross-Border Initiatives, CESCO)

3.4.1 Presentation of the cross-border functional area of Bratislava

The selected case study area is the cross-border suburban region of the Slovak capital city, Bratislava which is located right at the border with Austria and Hungary. This unique location has been fuelling cross-border suburbanisation, especially after Slovakia's joining the EU (2004) and the Schengen zone (2007), and after the 7-year derogation on cross-border labour mobility expired in 2009, in parallel with the introduction of the euro as the official currency of the country.

The NUTSIII region including the capital is one of the most developed statistical regions in Central and Eastern Europe characterised by a GDP per capita of 146% compared to the EU average (2024). The neighbouring regions in Austria and Hungary produce remarkably lower data (Lower Austria: 105%, Burgenland: 88%, Győr-Moson-Sopron county: 68%). During the last 20 years, Bratislava has become one of the economic engines of the Central European area attracting investors globally and residents from all over Slovakia – especially young families who seek appropriate housing for an acceptable price. In 2008 a plot in Bratislava cost up to 4.5 times more than in the Hungarian Rajka, a house was 3.2 times more expensive and a flat 4.7 times more costly. Compared with the Austrian side, the differences were smaller, but it took almost 20 years until the price levels became balanced. As the road infrastructure is well-developed from both directions, many Slovak families became cross-border residents who can reach the downtown of Bratislava in a shorter time than from the closest Slovak suburbs. The green character of the Austrian and Hungarian suburban regions as well as the linguistic factors also had a strong pull effect on the Slovak families. The Austrian municipality of Wolfsthal made remarkable efforts in the past to attract newcomers to ensure the sustainability of local services.

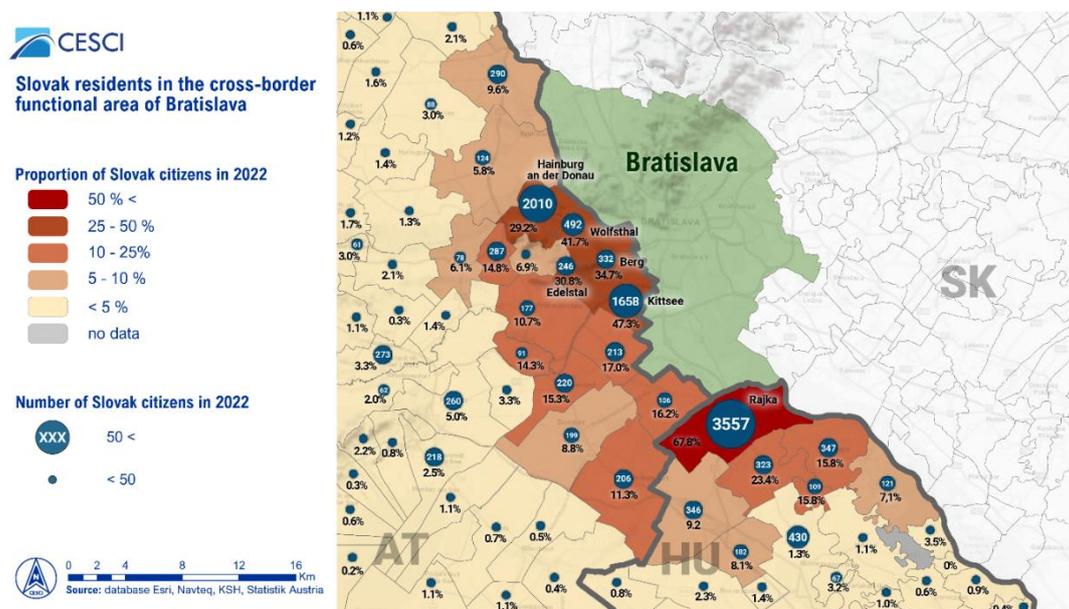


Figure 10 – Slovak residents in the cross-border functional area of Bratislava

According to the latest censuses, altogether more than 13,000 Slovak citizens live in the Austrian (7,540 persons) and Hungarian (5,465 persons) suburbs of Bratislava representing a bigger population than 6 districts within the Slovak capital. It is not a coincidence that the Slovak cross-border citizens call the Hungarian Rajka (populated by nearly 70% Slovaks) ‘Little-Bratislava’ (‘Malá Bratislava’) from where almost everyone from these (rather young) people commute every day to Bratislava to work. The Austrian side is characterised by slightly different conditions: there are more Slovak citizens who work in Austria (according to a non-representative study¹³⁵, nearly half of the Slovak population living there have a job in Austria, not in Slovakia).

The cross-border functional area forms part of the Centrope region shaped around Vienna (which is rather a sleeping cooperation platform). There are no further cross-border institutionalised bodies around Bratislava. The *baum_cityregion* initiative is the first one targeting the establishment of a permanent cross-border management structure facilitating the joint development of the border area (see below).

3.4.2 Evaluation of the theme of Euregional Cohesion

The case-study area’s Euroregional cohesion is in an embryonic phase, cooperation is managed in an ad-hoc way, especially through social media groups and by bilingual local volunteers (and, sometimes firms) who help the cross-border residents manage their daily lives. There is not a department within the city management of Bratislava which would take care of cross-border residents while the suburban municipalities focus on their daily tasks. As one of our interviewees stated: ‘Nobody feels responsible for these commuters.’

In the Austrian-Slovak relation, the first cross-border bus service (Nr 901) was launched in May 2008 between Wolfsthal and the Slovak capital. At that time the service was provided by the local public transport company of Bratislava (Dopravný podnik Bratislava, DPB). In 2017 the service was undertaken by a private company (Slovak Lines Služby a.s.) which cancelled the line during the COVID pandemic. Thanks to the efforts made by the *baum_cityregion* initiative, today the bus is operational again, between Hainburg and Bratislava thanks to the Integrated Transport System of Bratislava and Bratislava Region (IDS BK) (the costs are covered by Lower Austria, Bratislava and Bratislava region).

From 2010 to 2020 the DPB bus line Nr 801 offered the transport service for the Slovak citizens between the Hungarian Rajka and Bratislava. Since 2020 there has not been an operational bus connection between the two settlements because the Hungarian local and regional municipalities cannot afford it, while the Hungarian government does not want to co-finance it. Instead, the rail connection re-established in 2017 by the Austrian-Hungarian GYSEV-Raaberbahn company has been developed, increasing the number of rotations from 5 to 11 in 2023. However, the trains provide travelling opportunities between Rajka and Bratislava only. Consequently, those living farther from the Rajka railway station need to commute and change there. Furthermore, the travelling time by rail is longer than by car. Based on a local initiative, a private company plans to re-establish the bus service,

¹³⁵ Schaefer, C. and *baum2020* Projektteam (2019): *Wanderungsmotive slowakischer Einwohner*innen im österreichischen Umland von Bratislava*. Bratislava: Bratislava územný manažment – Bratislava Umland-Management.

but it will also be limited to the Rajka-Rusovce destination.¹³⁶ Due to the shortages in public transport services, the vast majority of the cross-border residents use their cars for commuting, generating more and more traffic jams in the Slovak suburbs of Bratislava.

There are many children attending kindergartens and elementary schools in Austria¹³⁷ and Hungary¹³⁸ but these are the local self-governments which take care of these services, there is not an integrated service-providing institution behind.

The local municipalities are the entities which try to resolve the everyday problems that the cross-border residents face. As the Mayor of Rajka stated: “I don’t know the term of Slovak settlers’ problems. I know but the problems of the residents of Rajka let them be Hungarian or Slovak.” The mayor’s office has 9 employees, one of them speaks Slovak but the Slovak citizens often visit the office accompanied by an interpreter. The municipality published a compilation on the formal and informal rules applied in Rajka twice so far: 7 and 2 years ago, which was distributed to all flats within the settlement. Every national and local rule to be applied when moving to and living in Rajka is translated into Slovak, and they are available on the official webpage of the municipality. Equally, the events are publicised bilingually. The mayor’s office follows the social media groups managed by the Slovak citizens and intervenes once a problem to solve is raised there. At the same time, in many cases, the local self-government misses the appropriate competencies for managing the obstacles, especially since 2013, when the administrative reform took place in Hungary. Still, when speaking about the management of cross-border obstacles, these are the local municipalities undertaking the leading role.

The baum_cityregion initiative is the first and only quasi-institution which deals with cross-border cooperation at the regional level – within the Austrian-Slovak context. The initiative started as a stand-alone project between 2011 and 2014, targeting the preparation of an integrated spatial plan and a joint management structure for the cross-border functional urban area (FUA). Between 2017 and 2020, the baum2020 project enlarged the topics of cooperation to the fields of culture & tourism, environment & climate resilience, mobility and local cooperation, and it established the platforms for regular exchanges, namely the mayors’ meetings (twice a year), the annual BAUM conference, thematic working groups involving sectorial experts, and the Steering Group composed by the representatives of Bratislava, Lower Austria, Burgenland and the two regional development companies of the Austrian provinces. This platform is convened every 2-3 months and is operated along an annual working plan based on a strategy. The activities are coordinated by a two-membered team of the baum_cityregion office: one team member is financed by Bratislava; the other one is jointly financed by Lower Austria and Burgenland.

The baum_cityregion project was implemented in 2021 and 2022 whose main aim was to lay the basis for an institutionalised structure which is being under construction today. A decision on the adoption of the founding documents will be made in autumn 2024. Upon the approvals, the initiative will be transferred to a Working Community (*Arbeitsgemeinschaft*) without a legal entity status, based on a

¹³⁶ The bus service was relaunched in October 2024.

¹³⁷ In Kittsee, 90% of the children attending the kindergarten and the elementary school are Slovak.

¹³⁸ In Rajka, nearly half of the children are of Slovak origin which generated the need for a Slovak-speaking teacher hired by the local municipality for years now.

partnership agreement and a financial agreement drafted along by international law. The Working Community will be coordinated by a political committee, the thematic coordination will be maintained by the Steering Committee while the daily work will be managed by the existing office.

The office plays a spatial engineering role when creating platforms for exchanges and project development within the cross-border area, but it cannot be seen as a cross-border coordination point. The team used to publish in every two years an information brochure in German and Slovak for the Slovak settlers with the title *'How to live in Austria'*; they managed to reopen the bus line between Hainburg and Bratislava and they plan to facilitate the opening of a new one between Prellenkirchen and Bratislava, but they have no capacities and competencies to deal with educational, employment, health, social, etc. issues.

In the Hungarian-Slovak relation, there is no similar institution to the *baum_cityregion* even with limited competencies¹³⁹, but the stakeholders of the *baum_cityregion* initiative intend to expand the partnership to the Hungarian municipalities which takes time.

Nevertheless, beyond the euroregional frames, previously, there was an intergovernmental coordination body between 2004 and 2014 which had a similar role to the planned FCBS mechanism. The governments of Hungary and Slovakia signed the so-called Basic Treaty on good neighbourly relations and friendly cooperation two years after the Slovak Republic was born (1993), on the 19th of March 1995. In November 1998, the two ministries of foreign affairs signed a protocol introducing a mechanism which facilitated the implementation of the Basic Treaty. The Hungarian-Slovak Joint Committee started its work as a part of the mechanism in 2004 and it held meetings twice a year until the Hungarian government neglected to convene the subsequent meeting in 2014.

The parties had an equal representation in the Joint Committee gathering experts of different ministries and the advocacy organisations of local and regional authorities, and they committed themselves to informing their counterparts about the legal changes and to eliminating legal, administrative and technical barriers to cooperation. The committee discussed topics related to local and regional development (with a special focus on cross-border integrated interventions), environmental and nature protection, transport infrastructure, employment, business, agriculture, tourism, harmonised development of public services (like water supply, waste management and health care), education, training, culture, sports and leisure, education and culture of minorities, risk management, public safety and crime prevention.

The agenda was defined by the topical issues of the two countries involving relevant experts. The problems and proposals raised by the representatives of the two delegations were negotiated and the commitments have been recorded in the minutes of the meetings including the resolutions whose implementation was guaranteed by the two (rotating) co-chairs (state secretaries) and the relevant ministries being present. The mechanism of 1998 enabled the organisation of further forms for negotiations that either partner could initiate.

¹³⁹ In 2022 Slovak citizens living in Rajka established a civil association named *'Közösen-Gemeinsam'* (*Together*) which provides ad-hoc assistance to the dwellers.

As a result of the joint committee meetings, the list of missing rail links has been compiled, a comprehensive road infrastructure development program started, several joint tourist initiatives were launched, the obstacles to cross-border health services were identified, an EGTC managing a cross-border geopark was established, etc. At the same time, the committee was not so effective as it could have been. These are the legal and administrative obstacles being unfolded through the #ACCESS project being implemented by CESC (HU) and CESC Carpathia (SK) between 2023 and 2029 which could provide the committee with a content-wise agenda. The #ACCESS project¹⁴⁰ is designed to identify the obstacles hindering cross-border mobility and integration along the Slovak-Hungarian border. The partners committed themselves to eliminate at least 4 of them by the closure time of the project which is subsidised by the Interreg VI-A Slovakia-Hungary Programme under the Interreg Specific Objective 1 (ISO1). The major shortage of the project is that the two partners are civil society organisations without competencies for eliminating the obstacles: they can only motivate the relevant authorities to eliminate them.

Today, the two governments operate a Joint Economic Committee which focusses on economic and transport issues and the scope of the participants is also very limited. The committee could replace the former joint committee and put the obstacles identified by the #ACCESS project on the agenda. For this, there is a need to amend the protocol and enlarge the participants' list of the current committee. NB! there is not a similar structure in the Austrian-Slovak context.

The Interreg programme bodies have also mechanisms to resolve obstacles emerging during the implementation of the programme and particular projects. As the head of the Managing Authority told in the interview, these were partly 'gentlemen's agreements' which could not be ruled according to the relevant EU regulations. The two national authorities always perform the programming process carefully to prevent the occurrence of unsolvable obstacles. During the COVID pandemic, the two national authorities needed to make ad hoc decisions to enable the implementation of cross-border projects. These innovative measures were later approved by the Commission. Obviously, the programme bodies can remove only those barriers which stem from the problems to the implementation of the CBC programme.

To sum up: today there is not an entity or institution which takes care of the legal and administrative obstacles across the Austrian and Hungarian suburban region of Bratislava. The *baum_cityregion* initiative plays a prominent role in boosting cooperation but lacks competencies and capacities to eliminate cross-border obstacles. In the Hungarian-Slovak realm, the Economic Joint Committee could undertake the mission of identification and elimination of border obstacles and, due to its composition, it would have the relevant competencies to systematically manage these obstacles. Of course, it cannot manage the obstacles occurring in the Austrian-Slovak context.

The mission of the Joint Committee is more or less the same as that of the Cross-Border Coordination Point included in the draft FCBS Regulation. The main difference between the two models is that the

¹⁴⁰ See the project site: <https://hu-sk.eu/en/>

CBCP would be permanently addressable without prior filtering (i.e. it could be addressed by whatever problems), while the Joint Committee would have one or two meetings a year where pre-filtered topics would be included in the agenda. The CBCP would have the unquestionable advantage (added value) of permanent accessibility while the Joint Committee would be advantageous due to the presence of relevant ministries and authorities being able to act afterwards.

Local municipalities are committed to helping, but they lack the relevant competencies, and the projects supported under ISO1 suffer from the same shortage: they can generate a list of obstacles but cannot eliminate them.

Indicator:

How many bodies currently address border obstacles in the region?	None
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3.4.3 Evaluation of the theme of European Integration

Current level of cross-border mobility in the region

The tri-border area might be the busiest in Central and Eastern Europe involving Vienna, Bratislava, and Győr, three major centres of industry and services. The Vienna-Bratislava axis can be considered as an economic engine of the larger region generating remarkable cross-border labour mobility. In 2024, more than 120 thousand Hungarian and nearly 45 thousand Slovak citizens work in Austria¹⁴¹ and their number is permanently increasing. From among them, in 2022, 56 thousand Hungarian and 22 thousand Slovak citizens commuted to Austria to work daily¹⁴², very often taking their children with them to kindergarten and school. As early as 2016 more than 1200 Hungarian pupils attended these institutions in Austria (sometimes preventing the shutdown of these local institutions)¹⁴³. In 2023, 1.7% of the elementary school attending pupils were Hungarian and 0.7% Slovak in Austria¹⁴⁴; in the same year, 2557 Hungarian and 1118 Slovak students attended tertiary educational institutions there.

In the Hungarian-Slovak context, in 2018 more than 20 thousand vehicles crossed the two road border crossings at Rajka per day which represented nearly one-third of the total cross-border road traffic between the two countries.

The volume of cross-border residential mobility is also increasing (see Figure 11): the re-settlement tendency has been accelerating during the last decade, which makes mobility more and more intense in the tri-border area.

¹⁴¹ See: [https://schengen.news/over-2000-hungarians-left-their-jobs-in-austria-in-a-month/#:~:text=1%20in%208%20Foreign%20Workers%20in%20Austria%20is%20Hungarian&text=Overall%2C%20the%20most%20representative%20foreign,Hungary%20\(124%2C158\)](https://schengen.news/over-2000-hungarians-left-their-jobs-in-austria-in-a-month/#:~:text=1%20in%208%20Foreign%20Workers%20in%20Austria%20is%20Hungarian&text=Overall%2C%20the%20most%20representative%20foreign,Hungary%20(124%2C158))

¹⁴² European Commission (2024): *Annual report on intra-EU labour mobility 2023*. Luxembourg: Publications Office of the European Union.

¹⁴³ Langerné Buchwald, J. (2017): *Ingázó diákok avagy tanulási célú ingázás az osztrák–magyar határ mentén. (Commuting pupils or education mobility along the Austrian-Hungarian border.)* Budapest: Fakultás Kiadó.

¹⁴⁴ Statistisches Jahrbuch. Migration & Integration. Zahlen, Daten, Indikatoren. 2024. Wien: Statistik Austria.

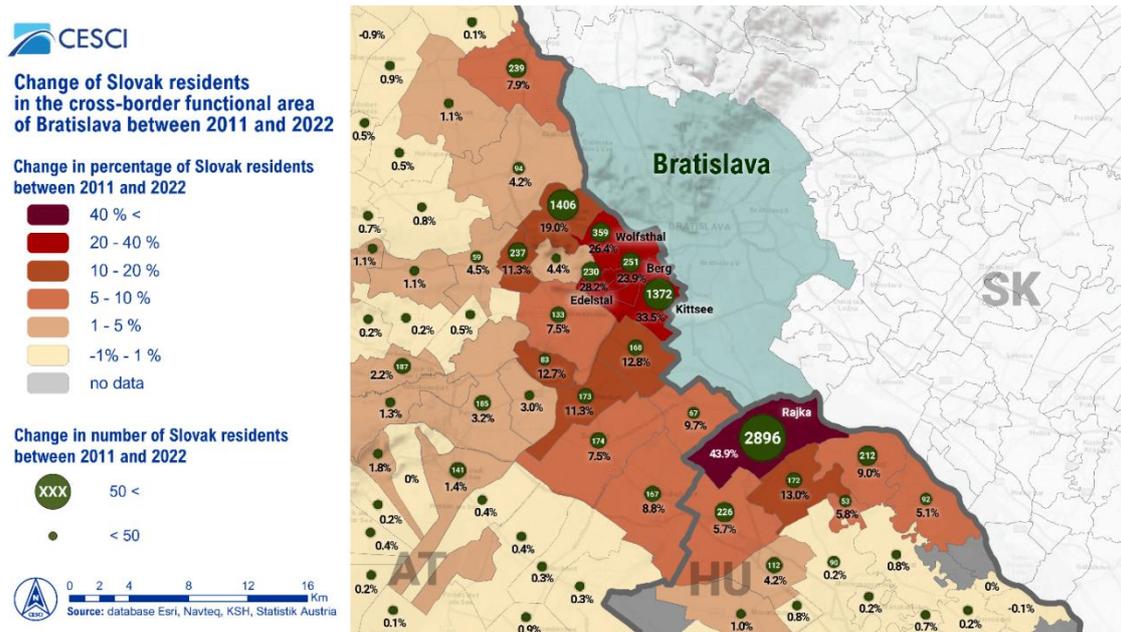


Figure 11 – Change of the quantity of Slovak residents in the tri-lateral suburban area of Bratislava between 2011 and 2022

The role of the proposal in fostering free movement and cross-border mobility

The baum_cityregion office managed to tackle the problem stemming from the cancellation of the cross-border bus line between Hainburg and Bratislava and published the information brochure on the living conditions in Austria on a biannual basis. At the same time, the office cannot manage all the problems occurring within the cross-border suburban area (including the Hungarian side). The coordination point could trigger legislative procedures in order to eliminate the obstacles hindering or diminishing cross-border mobility. Today, the instance similar to a CBCP owing this competence is missing in all three countries.

The added value of the proposal compared to existing EU-level tools

Today, the European toolbox of cross-border cooperation does not contain a mechanism through which legal and administrative obstacles can systematically be eliminated. The Interreg programmes (dated back to 1989) provide funding for cooperation, and, in some cases, as evaluation documents justify it, without this opportunity, cooperation would not even exist. At the same time, if there is no cooperation, there are no obstacles. Accordingly, the more intense the cooperation is, the more obstacles occur. Thus, when promoting cooperation, cohesion and integration, Interreg programmes unwillingly contribute to the generation of legal and administrative obstacles. Since the beginning of the current programming period, Interreg has also been facilitating the identification of these obstacles through the ISO1 projects. However, the programmes and the ISO1 project partners lack the competencies to eliminate the obstacles. The *b-solutions* initiative launched by the European

Commission and managed by the Association of European Border Regions (AEBR) suffers from the same shortcomings¹⁴⁵.

The governance frames for cross-border cooperation are ensured by the Madrid Outline Convention adopted by the Council of Europe in 1980 giving impetus to mushrooming euroregional initiatives, and the Regulation on a European Grouping of Territorial Cooperation (EGTC) adopted in 2006 and amended in 2013. Although the amended regulation has enlarged the scope for interventions of the groupings, the EGTCs are not equipped with competencies but only tasks. In the absence of competencies, EGTCs can be very useful tools for boosting cooperation and gathering information on legal obstacles, but they hardly can intervene in this field, if it is necessary, as States and ministries hardly take part in such institutions and the scope of the competencies of an EGTC is limited by the competencies of the members¹⁴⁶.

In the case-study area, there are no existing institutions like euroregions or EGTCs. The ISO1 is applied by both cross-border programmes but they cannot result in the systemic elimination of obstacles, due to the lack of relevant competencies.

The FCBS regulation would have a clear added value compared to the existing EU tools by enabling the systematic identification and elimination of legal obstacles hindering cross-border mobility, the integration, joint development and shared governance of borderlands and the implementation of cross-border projects.

Indicator:

Number and quality of court cases against the Member States with respect to cross-border mobility	We could not find any court cases regarding cross-border mobility in the Hungarian-Slovak context.
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3.4.4 Evaluation of the theme of Sustainable/Socio-Economic Development

Classification of obstacles potentially addressed by the proposal bearing socio-economic relevance

The lessons learned from the #ACCESS project, especially the results of the survey (with more than 1600 respondents) and the permanently operated online help desk show that border citizens face many different obstacles that may prevent them from crossing the border. The most frequent barriers concern:

- public transport, which is costly due to the prohibition of cabotage that the local municipalities cannot compensate (besides, the launch of cross-border lines pre-supposes the prior authorisation and the conclusion of a service contract across the border);
- health and emergency care, as the ambulance cars are not allowed to cross the border (the cross-border residents cannot even call them), and the health services are not integrated into a cross-border system which causes problems for the cross-border residents;

¹⁴⁵ See more on the project's website: <https://www.b-solutionsproject.com/>

¹⁴⁶ Literature on the impacts of national anti-COVID measures demonstrates the limited power of the EGTCs.

- social care in the case of cross-border residents, as they pay the social security in one country but need assistance in another;
- the access to administration and basic services (like water supply and sewage system, electricity, gas), as the online public administration services cannot be used through mobile devices registered on the other side of the border;
- access to healthy food, as local products cannot be sold beyond the state border but with huge administrative burdens;
- employment: the employer on one side cannot transfer the salary to the other side of the border therefore the employee needs to open bank accounts in both countries;
- access to delivery services across the border: the service providers do not deliver the ordered goods beyond the state border;
- education: the subsidies for elementary and secondary school pupils in Hungary are not accessible for children commuting from the other side of the border;
- crossability of the border during emergency cases like the COVID pandemic; etc.

Furthermore, in many cases, the commuters and the re-settlers miss appropriate information due to linguistic problems (80% of the Slovak newcomers of Rajka do not speak Hungarian, 30% of them do not speak any other language than Slovak), and shortcomings in spreading information. In these cases, a permanent operational coordination point would provide these people with information in their native language and could encourage the authorities to produce multi-lingual templates for foreigners.

At the same time, the situation is somewhat paradoxical, as the assistance is needed at the local level, in the cross-border suburban regions while the competencies without which the coordination points cannot intervene are available at the level of national authorities. As several interviewees stipulated, the local citizens would need a kind of *one-stop-shop*, an office, where they can manage their daily issues (submit petitions, procure official documents, get information, etc.) in their mother tongue. Obviously, the local needs differ from the mechanism that is offered by the European Commission.

Expected socio-economic impacts of the solution

Without reliable data, it is hard to estimate the positive socio-economic effects of the solution. At the same time, the beneficiaries of the set-up of an institution permanently targeting the legal obstacles to cross-border integration and mobility can be identified. These are:

- the companies employing cross-border workers;
- the companies facilitating the cross-border transport of workers;
- the companies interested in the cross-border real estate market and the financial companies offering loans for both individual investors and housing companies;
- the entrepreneurs assisting the cross-border settlement of new companies (legal firms, accountants, business consultants, interpreters, etc.);
- the companies interested in cross-border retail of products;
- the municipalities where new settlers pay local taxes;
- the municipalities whose public infrastructure could not be maintained without new settlers;
- the local citizens enabled to work on and move to the other side of the border with better working and living conditions (using their savings for higher quality services and increased consumption affecting the local economy);

- the local citizens acquiring access to better (public) services across the border.

The new mechanism could eliminate permanently persisting obstacles related to *health care* by enabling cross-border movement of ambulance cars which today are coordinated at the national level in a less reasonable way than it could be done in a cross-border context; and by the integration of (often parallel) inpatient service systems which could be managed in a more economic and more user-friendly way in a cross-border manner.

Another persistently occurring problem is the hindrance of *cross-border retail of local products* which impedes the development of local supply chains. Today, the different national legislations pose almost unsurmountable barriers to local products in the context of food safety and food hygiene, taxation, administration, etc. which make the delivery of healthy local food extremely complicated. It means that border people suffer from geographic discrimination: while the citizens living in the central regions of the country have an access of 360 degrees to healthy local food, the citizens living in the suburbs of Bratislava have access to 180 degrees at maximum (in Rajka, the situation is even worse).

The *public transport* system around Bratislava should be organised in an integrated way, expanding the local tariff system to the whole agglomeration, including the service providers operating in the Austrian and Hungarian suburbs as well. This development is impossible without an international contract (and a sound participatory planning process) which necessitates a facilitator owing relevant competencies. The mechanism could provide this solution, too.

3.4.5 Conclusions and recommendations from a Euregional perspective

The conditions for stronger and better-designed cross-border integration and more intense mobility around Bratislava would be remarkably improved through the application of a mechanism addressing the legal and administrative obstacles. As Austria is a federal state, there will be a need for a coordination point in the two provinces of Lower Austria and Burgenland (and maybe in Vienna), while in the centralised unitarian Hungary, one coordination point operated e.g. by the Managing Authority of the Interreg CBC programmes would be enough. If the Commission's proposal is not approved by the Council the set-up of another solution or mechanism will be necessary because the cross-border suburbanisation of the Slovak capital city will not be manageable otherwise. As the process already has today serious socio-economic and, especially, environmental consequences, the parties must find a way for integrated land-use planning and governance, if not at the provincial/national level, then, at least at the level of the suburban region. The *baum_cityregion* initiative might ensure an appropriate framework for this, provided the members own the appropriate competencies. Based on the interviews, three recommendations can be formulated regarding the planned mechanism.

Make the coordination point effective

Several interviewees underlined the significance of appropriate competencies (*ability to act*) and the "human factor" of every border issue (*willingness to act*). As in other cases in the cross-border world, both factors need to be ensured: without appropriate competencies, the coordination points will have no added value compared to existing professional advocacy organisations; without commitment, the

coordination point will be an example of “*European waste-of-money projects*” – as an interviewee summed it up. Advocacy power is also needed to eliminate the obstacles as fast as possible. The local actors can trigger procedures, but they last years until being accomplished even if the willingness is given on both sides, which might be harmful to an urgent project. A strong coordination point led by a committed person in a powerful authority (which might even be the national authority of the Interreg CBC programmes¹⁴⁷) may accelerate these procedures.

Ensure the commitment at national level

It is not enough to equip the CBCP with appropriate competencies and a committed staff. If one of the Member States does not want to resolve an unfolded problem, the CBCP cannot resolve it, either. The experiences with the Interreg projects show that both parties need to be committed to the solution. Accordingly, the voluntary implementation of the mechanism can generate problems: if one MS sets up the CBCP but the neighbouring MS does not, it is very hard to imagine that the obstacles identified by the CBCP will be eliminated together. At the same time, the experiences also show that if mutual openness exists, the obstacle will be eliminated – even without additional mechanisms or institutions.

Provide a decentralised information system

A major added value of the Freedom of Movement Council of the Nordic Council of Ministers is that it operates a system of “regional antennas” involving (euro)regional offices easily accessible for the local citizens through which everyone can report an obstacle which can be further commented by the antennas. It was a joint conclusion drawn by many interviewed local citizens that they don’t need a ‘far-away institution’ in the capital cities but rather a kind of *one-stop-shop* through which they can manage their daily matters, and they are given assistance. One of the interviewees said that the existing EGTCs, which are closer to the citizens than the national authorities could collect information on the obstacles from the ground and forward it to the relevant authorities.

The decentralised information system would have another advantage, namely (as the #ACCESS project demonstrates) once the citizens are invited to report the obstacles they face, the high number of barriers become visible for the decision-makers which can increase their commitment to the application of the mechanism – even if it is voluntary.

¹⁴⁷ This solution would answer the financial and institutional concerns raised by the Member States during the debate on the proposed FCBS mechanism.

4. Evaluation of the research themes

4.1 Evaluation of the theme of Euregional Cohesion

Under the theme Euregional Cohesion, the case studies of this dossier examined the level of cross-border cooperation and level of integration the selected cross-border regions. This included an examination of how cross-border obstacles are currently addressed: whether there are any bodies and/or institutional structures present, how they differ from the proposed European Cross-border Coordination Points, and what added value the EU proposal brings to cross-border governance and solving border obstacles.

Across the European cross-border regions, there are significant differences in existing institutional structures and tools for addressing cross-border obstacles. Some countries already have collaborations and structures, others do not yet. This was also shown in the four case studies examined in this report. While the case studies Benelux-Germany and France-Germany present regions characterised with high level of cross-border mobility, integration and cross-border cooperation, in the case studies of the Czech and Polish part of the Euroregion Neisse-Nysa-Nisa and Austrian and Hungarian suburban region of Bratislava this was less the case. Due to these differences, the exact impact of the proposed FCBS Regulation will also differ between cross-border regions. Nevertheless, it can be estimated that the FCBS Regulation has positive effects for both types of regions.

The added value of the FCBS Regulation is evident not only in cross-border regions without existing structures but also in those with established institutional frameworks and legislative tools. For regions without these structures, the undeniable advantage of the FCBS Regulation is its ability to create, for the first time, a coordination point that collects and analyses administrative and legal cross-border obstacles and the governance framework for solving them. Conversely, in European cross-border regions where such structures already exist, the FCBS Regulation would help legitimise their functions and provide a more permanent basis for them; for instance, for the Franco-German Cross-Border Cooperation Committee, the project on identifying border obstacles launched in 2024 by the Association of Czech Euroregions, and the pilot coordination point Schakelpunt between Flanders-Belgium and the Netherlands, should similar bodies be implemented across Europe.

Contrary to the conclusion that the FCBS Regulation would lack added value in regions with existing similar structures, this research came to a different conclusion. The presence of these structures and instruments may only enhance the effectiveness of the FCBS and the coordination points. This is because the FCBS Regulation does not establish a legal instrument for overcoming border obstacles — a limitation resulting from the removal of the ECBM tool from the proposal. The 'Cross-Border Facilitation Tool' functions merely as a procedure that authorities can use according to their own national legislation. In the Benelux-Germany area, this limitation is less pressing since there are legal instruments available via, for instance, the Benelux Union, or in the French-Germany case study, where the Aachen Treaty provides a legal basis for cross-border cooperation and derogations. In border regions lacking both legal and governance tools, the FCBS Regulation can still provide substantial value by offering an institutional framework for coordination and a structured process for resolving border challenges. However, in these cases, the limitations of the FCBS Regulation will be more pronounced, as there will be no accompanying legal instrument to facilitate the resolution of border obstacles.

Despite the absence of a legal instrument, the FCBS Regulation establishes new rights for legal and natural persons affected by cross-border obstacles. The Regulation imposes mandatory obligations on informing the initiator (who submits the cross-border obstacle) about their decision within the set deadlines. In cross-border regions, even where structures for cooperation and addressing border obstacles exist, these types of information obligations are not always present. Therefore, the added value of the new regulation would be that it requires Member States to provide a reasoned justification for their decision to remove or maintain an obstacle. The advantage of setting deadlines is that it ensures a compulsory response, which may facilitate a faster resolution. Furthermore, an analysis of an obstacle under the FCBS Regulation can serve as a valuable foundation for subsequent dialogue between authorities if such an analysis is not frequently provided. The clear prerequisite, then, is that such expertise in analysing border obstacles exists within the region, which institutions like ITEM, CESC, and the Euro-Institut (the authors' affiliated organisations) provide through their research.

Despite the potential benefits, the Regulation also has some drawbacks. First, particularly for a legislative instrument in the EU designed to harmonise laws (i.e. a Regulation in contrast to a Directive), it grants significant discretion to Member States regarding its implementation. Although the current proposal for the FCBS Regulation requires each Member State to establish at least one Cross-Border Cooperation Point (CBCP), Member States have the freedom to decide the form and number of CBCPs they implement. This means a Member State could choose to have only one CBCP for the entire state, potentially lacking regional insights and cooperation with (all) neighbouring Member States and regions. The sole requirement is that the contact information for the CBCP(s) must be publicly available, ensuring their visibility and accessibility. This could mean that simply providing an email address online, where border files can be submitted by initiators, could suffice. Furthermore, it remains the prerogative of the competent authorities to decide whether or not to resolve an obstacle.

Given the differences in how the Member States may implement the CBCPs and the varying levels of effort and willingness they exhibit in addressing border obstacles, the effectiveness of the Regulation could vary significantly. This concern becomes more pressing if the proposal is amended to eliminate the mandatory requirement for at least one CBCP, making it entirely voluntary, as proposed by informal discussions carried out in the context of this research.

Thus, another precondition for the success of the coordination points and the added value of the Regulation is the political willingness of Member States to utilise and implement it effectively. Instead of creating a single centralised CBCP, multiple coordination — potentially established jointly with neighbouring countries/regions — can be more effective, offering better regional and local insights, capacity, and expertise, especially in countries with multiple borders. This is evident from the case studies. For instance, in the France-Germany study, it was found that a French-German coordination point that works in network with all the experts in the Greater Region and the Upper Rhine proves more beneficial than a national coordination point. Similarly, in the Benelux-Germany case study, the pilot coordination point Schakelpunt has been established at the border of Flanders (Belgium) and the Netherlands, suggesting a need for a coordination point on specific borders. Additionally, the regional and federal structures of Member States like Germany, Austria, and Belgium support the establishment of regional CBCPs, while in more centralised Hungary, a single coordination point may suffice.

The FCBS Regulation can help to enhance the quality of cooperation and Euregional cohesion in cross-border regions, if the new procedures do not disrupt established governance frameworks and if the new cross-border coordination points are integrated into existing bodies, working in a network with all experts and financed. Indeed, cross-border regions with existing structures have further the potential to integrate the coordination points to existing bodies. This also demonstrates that the argument claiming the Regulation would merely duplicate existing structures in countries like the Nordics (with the Freedom of Movement Council) is unfounded. In fact, the Committee of the Regions also points towards existing cross-border governance structures, such as the Nordic Council and the Franco-German Cross-border Cooperation Committee, as examples of a CBCP.¹⁴⁸

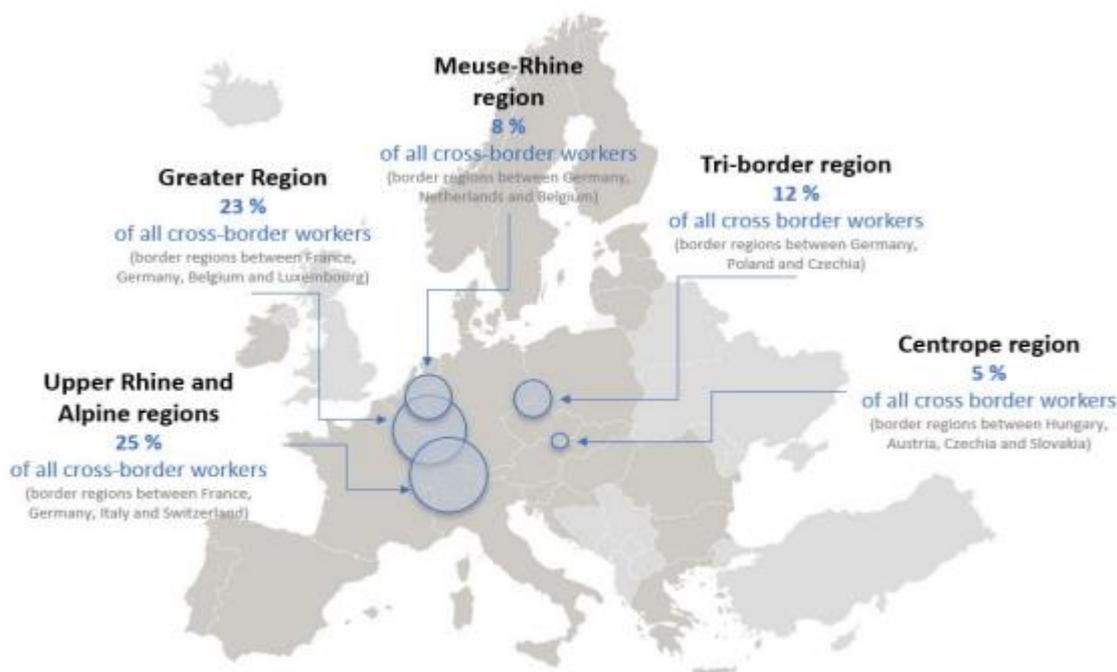
The FCBS Regulation presents an opportunity for the creation of a network of coordination points across Europe. This might enhance the visibility of border regions and the influence of coordination points at the national level. The Regulation would also enhance the monitoring of cross-border obstacles, with greater visibility at the national and European levels. National monitoring would facilitate the establishment of a network between European countries, regions and experts. The European network would not only be valuable for systematically collecting and analysing cross-border obstacles but also for providing solutions that could inspire other cross-border regions to address their challenges in a similar manner.

The proposed FCBS Regulation presents a transition from *solving* cross-border obstacles (via the ECBM mechanism) to only *facilitating* cross-border solutions. There is a clear transition from a solving cross-border obstacles via a legal tool (ECBM) to addressing border obstacle solutions via a common governance structure (CBCPs). This is also true given that whether the national government and competent authorities choose to resolve the obstacle remains completely voluntary. Nevertheless, the Regulation has potential in deepening Euregional cohesion in cross-border regions across Europe, if properly implemented.

4.2 Evaluation of the theme of European Integration

Under the theme of European Integration, this dossier evaluated the benefits of the EU proposal on fostering free movement and the single market in the EU in light of the level of cross-border mobility in the examined case studies. The evaluation also considered the additional value that the FCBS Regulation could bring to cross-border regions in comparison to existing EU instruments like *b-solutions* and SOLVIT. In this evaluation, it is also relevant to have a look at the general mobility flows across borders and the presence of border obstacles perceived and addressed.

¹⁴⁸ European Committee of the Regions, Opinion European Cross-Border Mechanism 2.0, COTER-VII/025.

Figure 12 – Cross-border work across European cross-border regions¹⁴⁹

The evaluation of Euregional cohesion across different case studies revealed variations in cross-border cooperation among them. It is interesting to explore whether there is a correlation between cross-border mobility and the extent of cross-border cooperation. As illustrated in figure 12 above, cross-border workers are highly mobile in the Benelux-Germany and France-Germany case studies, while this mobility is significantly lower among Hungary, Slovakia, and Austria. So-called macro-regions of cross-border work were identified in the five cross-border regions presented in the figure above. Together, the macro-regions represent around 70% of all cross-border commuters in the EU and EFTA. The figure shows a concentration of cross-border work movements along a line from the mouth of the river Rhine up to the lake Lemman. This trend also aligns with the findings on cross-border cooperation, which was determined to be lacking in a structural manner in that particular case study under the evaluation of Euregional cohesion. Indeed, zooming into the specific case study cross-border regions and macro-regions, different mobility flows and determinants can be seen. In the macro-regions of Upper-Rhine and Alpine regions, Greater Region and the Meuse-Rhine Region – that cover the case study areas of the Benelux-Germany and France-Germany, mobility is strongly supported by strong institutional cooperation across borders.¹⁵⁰ However, mobility flows in the macro-regions Tri-border region and Centrope region – that cover the case study areas of Czechia-Germany-Poland and Bratislava – are merely caused by major economic differences rather than institutional cooperation across borders. E.g. higher living standards in Germany and Austria are important determinants for crossing the border for work (pull factor).

¹⁴⁹ Hassan, E., Siöland, L., Akbaba, B., Cinova, D., Gasperini, M., & Geraci, M. (2023). Annual report on intra-EU labour mobility 2022, Publications Office of the European Union. <https://data.europa.eu/doi/10.2767/560178>, p. 106.

¹⁵⁰ Ibid, p. 203-206.

Table 3 – B-solutions cases across the case studies¹⁵²

Case study	Border area	Number of cases	Type of applicant ¹⁵³
Benelux-Germany	BE-DE	2	1 CB 1 BE
	BE-NL	13	4 BE+CB 4 CB 4 NL 1 BE
	DE-BE-NL	6	5 CB 1 NL
	NL-DE	19	11 CB 6 NL 2 DE
	DE-LU	1	1 LU
	BE-LU-FR-DE	1	1 CB
	Total	42	22CB, 16 MS + 4 mix (11 NL, 6 BE, 2 DE, 1 LU)
Germany-France	FR-DE	7	5 CB 1 FR 1 DE
	LU-FR-DE	1	1 CB
	FR-DE-CH	2	1 CB 1 FR
	Total	10	7 CB, 3 MS (2 FR, 1 DE)
Austrian and Hungarian suburban region of Bratislava	SK-HU	5	5 CB
	AT-HU-SK	1	1 AT
	Total	6	5 CB, 1 MS (AT)
Czech and Polish part of the Euroregion Neisse-Nysa-Nisa	CZ-DE-PL	1	1 CB
	DE-FR-CH	2	1 CB, 1 FR
	CZ-DE	2	1 CB, 1 CZ
	PL-CZ	1	1 PL
	Total	6	3 CB, 3 MS (1 FR, 1 CZ, 1 PL)
All case studies	Total	64 (of all 169 cases)	37 CB, 23 MS

There are differences in how far the *b-solutions* have been used between the case studies. Between these case studies, most cases originate from the Benelux-Germany area, where especially obstacles from the Dutch-German and Belgian-Dutch borders have been submitted and analysed. This highlights a "hotspot" of border obstacles and suggests an awareness of the *b-solutions* initiative as well as the need for addressing border obstacles by initiators. Establishing a Cross-border Coordination Point at

¹⁵² Source: Association of European Border Regions (AEBR) database: Confirmed B-solution cases. The map above includes additionally cases which are pending, which explains minor differences between the figure and the table.

¹⁵³ "CB" refers to a Euregional actor/cross-border organisation as an initiator (such as EGTS, Euregios, Cross-border Information Points). Country abbreviation refers to a local initiator (municipalities, provinces, businesses).

the border between the Netherlands and Germany, potentially with a specific state like North Rhine-Westphalia, could prove beneficial.

The *b-solutions* programme has been used in ten advice cases at the French-German border. Indeed, the map illustrates a concentration of *b-solutions* cases originating from France, Germany, Belgium, and the Netherlands. This suggests that these countries and border regions may have a greater need for Coordination Points, given the higher number of cases. In contrast, the other two case studies show only six cases each, though the reasons for this are unclear. It could be due to lower awareness of the *b-solutions* initiative in those regions or fewer cross-border obstacles arising in areas with less collaboration. Alternatively, other mechanisms may already be in place to address such challenges, meaning the absence of *b-solutions* cases does not necessarily indicate a lack of cooperation or border issues. For instance, the relatively few cases reported from the Nordic countries could be attributed to the Freedom of Movement Council, which handles and resolves cross-border obstacles, reducing the need for the *b-solutions* programme in the Nordic countries. Indeed, with the support of a Slovakian-Hungarian Interreg-programme, CESCO and CESCO Carpathia apply an obstacle management project, which renders *b-solutions* unnecessary in the Hungarian-Slovakian border area.¹⁵⁴

The table also compares data on the types of applicants submitting obstacles for analysis under the *b-solutions* framework, distinguishing between cross-border organisational or Euregional actors and local (national) actors, as well as identifying which side of the border they come from. Overall, the data shows that cross-border and Euregional initiators are particularly active across the studied regions, submitting the majority of cases. This suggests that cross-border structures are already present in these areas and that these might be beneficial for identifying border obstacles. In this regard, cross-border structures may be seen as an important contributor for well-functioning Coordination Points. In the Benelux-Germany case study, the Netherlands stands out as the most active in submitting cases, indicating that a higher number of cases for Coordination Points may also originate from there, further emphasizing the need for such coordination points on the Dutch borders. In other case studies, the number of cases submitted by national or local actors from different Member States is more evenly distributed.

Compared to the FCBS Regulation, limitations of *b-solutions* are that they only provide an expert analysis of the obstacle and potential solutions, but they are unable to compel member states and competent authorities to implement the solutions. It is, therefore, evident that the new regulation should bridge the gap between analysis and the implementation of solutions. However, it is also notable that the FCBS Regulation does not provide a specific budget yet whereas *b-solutions* are funding expertise. If the implementation of Cross-border Coordination Points under the Regulation would be voluntary, (partial) funding from the European Commission — similar to the support provided for *b-solutions* — could provide an incentive for Member States with limited capacity and resources for cross-border cooperation to establish these points.

Looking at how much the SOLVIT system, designed for citizens and businesses who experience an infringement of their EU rights, is used in the studied regions, the data is interesting as it may indicate the activity and awareness of citizens in submitting obstacles, similar to what could occur under the

¹⁵⁴ See: <https://hu-sk.eu/en/>

FCBS Regulation. It can also indicate where obstacles are being experienced in different Member States. However, in interpreting this data, it must be noted that SOLVIT addresses a wider scope of obstacles: obstacles on the internal market, not specific to cross-border obstacles experienced in border regions.

Table 4 – Use of the SOLVIT-mechanism across the studied regions¹⁵⁵

Total SOLVIT cases: 4 896 cases (1 December 2022-30 November 2023)						
Case study	Member State	Received cases (MS where problems encountered)	Submitted cases (citizen/business activity)	Total	Proportional Total (% all cases)	Proportional engagement (% submitted vs. received)
Benelux-Germany	Netherlands	48	138	186	3.8	287.5
	Germany	208	160	368	7.5	76.9
	Luxembourg	24	43	67	1.4	179.2
	Belgium	62	98	160	3.3	158.1
	Total:	342	439	781	15.9	-
Germany-France	France	432	144	576	11.8	33.3
	Germany	208	160	368	7.5	76.9
	Total:	640	304	944	19.3	-
Austrian and Hungarian suburban region of Bratislava	Austria	98	36	134	2.7	36.7
	Slovakia	37	49	86	1.8	132.4
	Hungary	21	215	236	4.8	1023.8
	Total:	156	300	456	9.3	-
Czech and Polish part of the Euroregion Nisse-Nisa	Czechia	24	50	74	1.5	208.3
	Poland	18	91	109	2.2	505.6
	Germany	208	160	368	7.5	76.9
	Total:	250	301	551	11.3	-

The data (Table 4) shows that the area of Germany and France accounts for the largest proportion of total cases at 19.3%, followed by Benelux-Germany at 15.9%. The Austrian-Slovak and Hungarian-Slovak area has the smallest proportion at 9.3%. That suggests that the SOLVIT mechanism is relatively well known and used in the Germany-France area, compared to Austrian-Slovak and Hungarian-Slovak areas. However, as noted in the France-Germany case study, SOLVIT is not used and known in the border region. That suggests that the cases are coming from other areas than from the border. In the Czechia, Germany, and Poland case, Germany again stands out with a balanced number of received (208) and submitted cases (160), but the total shows that Czechia and Poland have much lower figures. Hungary shows an exceptionally high engagement level (1023.8%), indicating that citizens and

¹⁵⁵ Own calculations based on data at: https://single-market-scoreboard.ec.europa.eu/enforcement-tools/solvit_en.

businesses are active in submitting and initiating cases despite fewer received cases. This could potentially be explained by a higher number of outbound cross-border mobility (outflow) than inbound (inflow) mobility from Hungary.¹⁵⁶ Similar findings on citizen/business activity can be made for Poland and (to a lesser degree), in the Netherlands.

Finally, under the research theme of European integration, this dossier evaluated the number of court cases and the sectors relevant to cross-border obstacles. It was found that the added value of the FCBS Regulation lies in the wider scope of addressing cross-border obstacles that do not constitute a violation of rights but rather hinder or interfere with the development of cross-border projects and services. These issues, while not strictly infringements of (EU) rights and perhaps not always admissible to courts, could still be submitted for resolution pursuant to the FCBS Regulation.

It is also worthwhile to note that while internal market obstacles may not be submitted to the CBCPs, the resolution of cross-border obstacles would still facilitate the free movement rights and strengthen European integration and the internal market by improving the functioning of cross-border public services in cross-border regions. The number of *b-solutions* cases in this area indicates that multiple border obstacles are being encountered, highlighting the need for resolution of these issues. Another clear advantage of the FCBS Regulation over lengthy court rulings is its focus on resolving obstacles more quickly, and adhering to specific deadlines.

As discussed, the FCBS regulation would have a clear added value compared to the existing EU tools and would have positive effects on deepening European integration by fostering the rights to free movement and eliminating cross-border obstacles by enabling the systematic identification and elimination of legal obstacles hindering cross-border mobility, the integration, joint development and shared governance of borderlands and the implementation of cross-border projects. The FCBS Regulation may provide an opportunity to develop new cross-border public services and infrastructure more rapidly, which would also facilitate the internal market. With the current status quo, the need and usage of the FCBS Regulation and CBCPs can be seen in line with the conclusions in the evaluation of the theme of Euregional Cohesion. In cross-border territories where more mobility and cooperation are present, more cases and obstacles are submitted to the existing EU tools. It is in these regions that it can be expected that the CBCP will be warmly welcomed by initiators. However, the creation of CBCPs in cross-border regions that currently are lagging behind in the submission of *b-solutions* cases and similar, might enthuse and encourage people to interact across borders and make border obstacles better known.

4.3 Evaluation of the theme of Sustainable/Socio-Economic Development

In the assessment of Sustainable/Socio-economic Development, the dossier examined the benefits of overcoming cross-border obstacles for citizens and businesses in the studied European cross-border regions. Across the case studies, several cross-border obstacles were identified. These obstacles were

¹⁵⁶ European Commission: Directorate-General for Employment, Social Affairs and Inclusion, Hassan, E., Siöland, L., Akbaba, B., Cinova, D. et al., Annual report on intra-EU labour mobility 2022, Publications Office of the European Union, 2023, <https://data.europa.eu/doi/10.2767/560178>

evident in both case studies, with low and high levels of structural cross-border cooperation. In fact, as cooperation and mobility increase across borders, more cross-border obstacles tend to become visible.

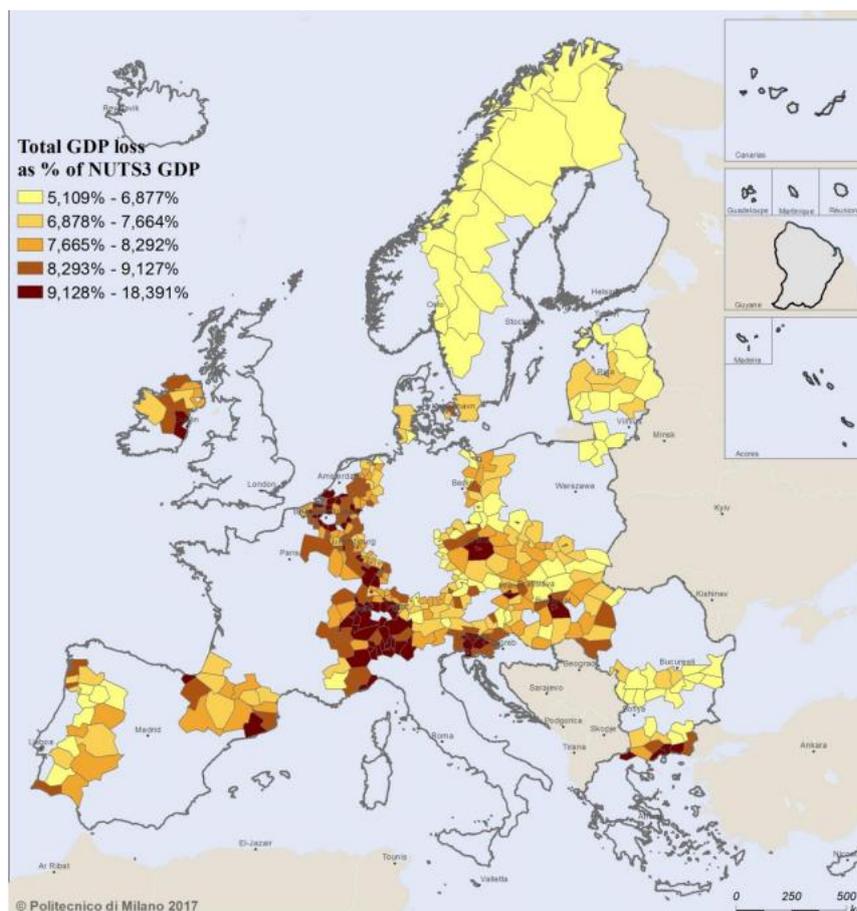
Cross-border obstacles in border regions are mostly due to discrepancies between national legislation that impede the cross-border mobility of individuals and businesses. For instance, the persistent administrative obstacles in the Upper Rhine and the Greater Region pertained to social security, taxation, the recognition of qualifications, the posting of workers, and labour law. Similar obstacles were identified in the other case studies, providing examples of cross-border obstacles across several sectors from healthcare, education, and the labour market. In such instances, the national law is mostly not in violation of European rules governing the internal market; however, it does conflict with the legislation of the neighbouring country. Therefore, a legal framework applicable to all Member States to find solutions to legal and administrative obstacles in cross-border regions is therefore also a necessary complement to the proper functioning of the internal market, a core EU objective. The need for such a legal instrument highlights a significant shortcoming of the FCBS Regulation: the removal of the ECBM legal instrument. However, the regulation would still provide a governance framework for analysing, collecting and solving border obstacles.

Without accurate data, it is not possible to measure a concrete, positive impact on sustainable and socio-economic development for cross-border regions if the FBCS Regulation would be implemented. However, it can be estimated that elimination of border obstacles would have a positive impact. In 2017, a study commissioned by the European Commission on the "Economic Impact of Cross-Border Obstacles on GDP and Employment in Internal Land Cross-Border Regions" estimated that removing just 20% of existing obstacles could increase GDP in those regions by 2%.¹⁵⁷ A more recent study by the European Parliamentary Research Service, titled "Mechanism to Resolve Legal and Administrative Obstacles in a Cross-Border Context - European Added Value Assessment," concluded that adopting a new legislative instrument at the EU level to address cross-border legal and administrative obstacles could yield economic benefits of €123 billion per year for the EU, as well as a positive social impact on border regions.¹⁵⁸ The economic impact can also be different per border region. The mentioned studies also address the spatial distribution of this GDP effect, where the percentages differ significantly between NUTS3 regions. Again, in line with the earlier themes, a line from the mouth of the river Rhine up to the lake Lemman can be discovered. The removal of border obstacles by CBCPs may thus result in the greatest immediate growth of GDP for the case studies of the Benelux-Germany and France-Germany. However, it should be noted that the FCBS Regulation may also promote cross-border cooperation in other regions, resulting in more economic opportunities for development and growth across borders.

¹⁵⁷ European Commission, Directorate-General for Regional and Urban Policy, Caragliu, A., Capello, R., Camagni, R. et al., Quantification of the effects of legal and administrative border obstacles in land border regions – Final report, Publications Office, 2017, <https://data.europa.eu/doi/10.2776/25579>; see COM(2017) 534 final, p. 6; for more details see its accompanying SWD(2017) 307 final, point 2.2, p. 20- 22.

¹⁵⁸ EPRS, Mechanism to resolve legal and administrative obstacles in a cross-border context: European added value assessment, PE 740.233, 2023.

Figure 14 – Percentage of GDP loss at NUTS3 level¹⁵⁹



In conclusion, the FCBS Regulation can play an important role in enabling the functioning of the single market and fostering the economic, social and territorial cohesion of the EU. The proposal can have a direct impact on the daily life of people living in cross-border regions by improving their access to services and economic opportunities and allowing the implementation of cross-border public services at a faster pace.

¹⁵⁹ European Commission, Directorate-General for Regional and Urban Policy, Caragliu, A., Capello, R., Camagni, R. et al., Quantification of the effects of legal and administrative border obstacles in land border regions – Final report, Publications Office, 2017, <https://data.europa.eu/doi/10.2776/25579>; see COM(2017) 534 final, p. 23.

5. Conclusions and recommendations from a Euregional perspective

5.1 Conclusions and recommendations

With the ITEM Cross-border Impact Assessment methodology, this dossier evaluated the potential (*ex-ante*) cross-border effects of the proposed EU Regulation on "Facilitating Cross-border Solutions" (the FCBS Regulation) across European cross-border regions. Authored by ITEM together with research institutions of the TEIN-network, the dossier carried out four case studies evaluating the impact of the FCBS Regulation on Euregional cohesion, European integration and Sustainable/Socio-Economic development in the following border regions: Benelux and Germany, France-Germany, the Czech and Polish part of the Euroregion Neisse-Nysa-Nisa, and Austrian and Hungarian suburban region of Bratislava.

The FCBS Regulation presents a transition from *solving* cross-border obstacles via a legal tool (the ECBM) to *facilitating* solutions to cross-border obstacles via a common governance structure (Cross-Border Coordination Points, CBCPs). The findings from the case studies reveal significant disparities in the levels of integration and cooperation among regions, with high mobility areas like Benelux-Germany and France-Germany demonstrating structural collaboration compared to regions with limited cross-border frameworks, such as those involving the Hungarian-Slovak-Austrian border region around Bratislava. Despite the differences, the estimated impact of the proposed FCBS Regulation will be positive and provide added value for both types of regions. While the case studies presented significant differences in how far cross-border cooperation was structured and institutionalised, common for the case studies was the high number of legal and administrative obstacles experienced, presenting significant challenges for citizens, businesses and institutions in cross-border regions. While direct quantitative impacts remain to be fully assessed, the potential positive benefits of reducing border obstacles to the socio-economic development of border regions are evident.

The clear benefit of the FCBS Regulation lies in its ability to establish, for the first time, a coordination point that collects and analyses administrative and legal cross-border obstacles, along with a governance framework for addressing them, particularly in border regions that lack such structures. In European border regions where these structures already exist, the FCBS Regulation can enhance cohesion and improve the quality of cooperation by legitimising the functions of existing institutional frameworks and providing them with a more permanent basis. For example, this applies to the Franco-German Cross-Border Cooperation Committee and the pilot coordination point *Schakelpunt* between Flanders (Belgium) and the Netherlands. The presence of these established structures and instruments can further enhance the effectiveness of the FCBS Regulation by bridging the gap created by the lack of a legislative tool for overcoming border obstacles, for example, by the "toolbox" of the Benelux Union offering these needed legal instruments.

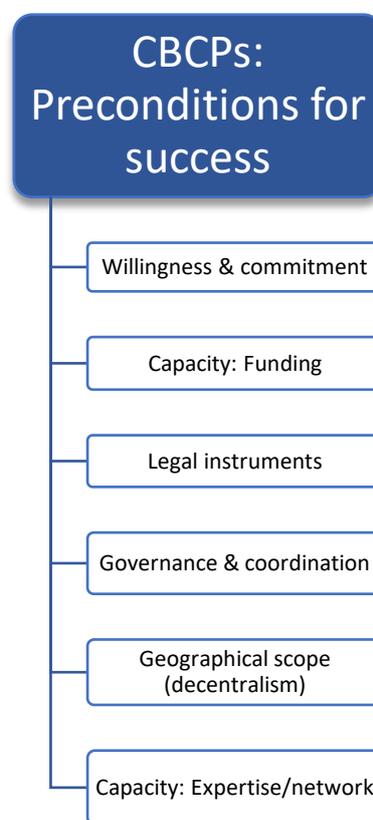
Despite the absence of a legal instrument, the FCBS Regulation establishes new rights for stakeholders affected by cross-border obstacles. The added value of the Regulation is that it establishes a new right for 'initiators' to submit border obstacles and that it requires Member States to provide a reasoned justification for their decision to remove or maintain an obstacle. Even in cross-border regions with high levels of integration and cooperation, this is found to be an added value as a 'one-stop-shop' for cross-border obstacles is not always clearly present. Furthermore, the added value of the FCBS

Regulation lies in its wider scope for addressing cross-border obstacles that, while not legal rights violations and potentially not admissible to courts, still hinder the development of projects and services, having the potential to facilitate the free movement rights, and strengthen European integration and internal market by improving the functioning and more rapidly the development of cross-border public services and projects in cross-border regions. Finally, the Regulation presents an opportunity for the creation of a network of coordination points across Europe, enhancing the visibility of border regions and systematic collection, analysis and elimination of cross-border obstacles at regional, national and European levels. This could also have added value for promoting better-informed policies and legislation regarding cross-border territories.

Nevertheless, the Regulation suffers some drawbacks in leaving significant discretion to Member States regarding its implementation, for instance in relation to the number of coordination points. Furthermore, it remains the prerogative of the Member States' competent authorities to decide whether or not to resolve an obstacle. Given the differences in how Member States may implement the CBCPs and the varying levels of effort and willingness they exhibit in addressing border obstacles, the effectiveness of the Regulation could vary significantly. This concern becomes more pressing if the proposal is amended to eliminate the mandatory requirement for at least one CBCP, making it entirely voluntary, as proposed by the Council. Nevertheless, it might be a key to finding enough political support across all Member States to adopt the Regulation. In this sense, the Regulation could function similarly to the EGTC Regulation: while it applies to all Member States, the coordination points and solving border obstacles may be more relevant to some than to others.

These findings result in the following recommendations. To fully realise the potential of the FCBS Regulation, several preconditions must be met for the successful implementation of Cross-Border Coordination Points (see Figure 14). These include the political willingness and commitment of national and regional authorities in the Member States, effective governance and coordination, sufficient capacity in terms of funding, expertise, networks and legal instruments to address and solve border obstacles, and an appropriate balance in the geographical implementation and number of coordination points:

Figure 14:
Recommendations



- 1. Willingness & Commitment:** Because of the voluntariness in deciding whether to resolve a border obstacle and the only mandatory requirement to implement one Cross-border Coordination Point under the Regulation, it requires political willingness and commitment from the Member States to implement the Regulation in its full potential and to recognise the importance and economic-social benefits of solving border obstacles. The downfall of existing

instruments solving border obstacles, such as *b-solutions*, is that they lack the authority to compel action. Without appropriate competencies, the coordination points will have no added value compared to existing instruments.

2. **Funding:** The FCBS Regulation does not provide a specific budget yet, whereas *b-solutions* and Interreg are funding expertise. If the implementation of Cross-border Coordination Points under the Regulation would be voluntary, (partial) funding from the European Commission — similar to the support provided for *b-solutions* — could provide an incentive for Member States with limited capacity and resources for cross-border cooperation to establish these points and possibly conduct analyses. This has also been brought forward by the Committee of the Regions.¹⁶⁰
3. **Legal instruments:** A regrettable development in amending the ECBM Regulation to the FCBS is that it no longer provides a legislative tool for overcoming border obstacles, but a 'cross-border facilitation tool' functioning merely as a procedure that authorities can use according to their own national legislation. Existing legal instruments in the regions may enhance the effectiveness of the Regulation and proper solutions to border obstacles. An example is the Benelux-Germany case study, where the 'toolbox' of the Benelux Union offers some legal instruments, or the Aachen Treaty providing legal basis for Franco-German cross-border cooperation and derogations.
4. **Governance & Coordination:** The FCBS Regulation can help to enhance the quality of cooperation and Euregional cohesion in cross-border regions if the new procedures do not disrupt established governance frameworks and if the new cross-border coordination points are integrated into existing bodies, working in network with all experts and financed. Indeed, cross-border regions with existing structures have further the potential to integrate the coordination points to existing bodies, working in a network with all experts and financed.
5. **Geographical scope:** Rather than establishing a single centralised Cross-Border Cooperation Point, which is the minimum requirement of the Regulation, implementing multiple, regional Coordination Points — potentially in collaboration with neighbouring countries or regions — can be more effective. This approach provides better regional and local insights, capacity, and expertise, particularly in countries with multiple borders. A local coordination point would also be more visible for citizens and organisations, as currently the experiences with the *Schakelpunt* show. Different implementation models can be identified, ranging from the least advantageous (one central coordination point) to a sufficient option (several regional coordination points), and ultimately to the most optimal scenario (joint regional coordination points established with neighbouring regions in another Member State). Here, it is relevant to consider the governmental structure of each Member State: in federal countries like Germany, Austria, and Belgium, multiple regional CBCPs are likely to function more effectively, while in more centralised states like Hungary, a single coordination point may suffice. Finally, it is important to

¹⁶⁰ Committee of the Regions, Opinion Mechanism to resolve legal and administrative obstacles in a cross-border context – The Cross-Border Facilitation Tool, COTER–VII/037.

note that the voluntary implementation of the FCBS Regulation can lead to complications. If one Member State establishes a coordination point while the neighbouring state, where the obstacle originates, does not, it may prove difficult to resolve that obstacle.

- 6. Expertise/network:** an analysis of an obstacle under the FCBS Regulation can serve as a valuable foundation for subsequent dialogue between authorities, especially if such an analysis is not frequently provided. A prerequisite for this is the availability of expertise in and information on cross-border aspects within the region. For example, in the Benelux area, several Cross-Border Information Points, such as INFOBEST in the Upper Rhine region (France-Germany-Switzerland), provide this information, in contrast to the Slovakian-Hungarian border, which lacks such an information point. Additionally, research institutions like ITEM, CESCI, and the Euro-Institut—affiliated with the authors—play a vital role in this network by contributing their expertise through research and proper analyses of obstacles and solutions.

5.2 Outlook

After finalising this research, the Council reached an agreement on their negotiating mandate on 23 October 2024. Under the Hungarian presidency, the Council supports the proposed Regulation, however, has proposed a compromise with the following amendments:

- Establishing a CBCP is no longer mandatory. The only obligation for Member States deciding not to implement CBCP(s) is to provide contact information of a relevant authority that may be contacted and receive information from a CBCPs of a neighbouring Member State. They are not obligated to examine the file. Obstacles can only be submitted for a border where at least one CBCP has been established.
- The absolute voluntary nature of solving cross-border obstacles, and the way how they are solved, is emphasised. The specific grounds on which authorities could conclude there is no obstacle and that the file is closed (such as insufficient information or misinterpretation of provisions) have been removed. Member States decide on the appropriate tool to solve the obstacle. To this end, ad hoc mechanisms can be created.
- Elaborating that CBCPs may be created as a separate authority, public law body or permanent entity, or integrated as part of existing authorities/bodies, such as cross-border cooperation committees or commissions, established in the framework of bilateral cooperation or friendship treaties; intergovernmental commissions for cross-border cooperation or their secretariats; councils, secretariats or general-secretariats, established in the framework of multinational agreements for cooperation; national coordination offices, national centres or contact points, or similar structures established in the framework of other sectoral European policies; Interreg programme authorities and the EGTCs. This development is positive, as it is clearer how CBCPs could be integrated into existing structures that may vary between Member States (allowing for place-based policies).
- Natural persons are removed from the concept of ‘initiator’, i.e. only private and public entities (involved in the provision, operation, establishment or functioning of any cross-border public service or infrastructure) may submit obstacles. This change would emphasise the need for right

infrastructure in the Member States which provide options for natural persons to submit obstacles, e.g. Cross-Border Information Points.

- Exclusion of maritime borders from the scope of the Regulation (applying only to land borders).
- Member States are no longer required to set up national public registers on cross-border files. Instead, the European Commission will set up and maintain a single EU public register of cross-border files.
- The deadlines for processing cross-border files, in absence of deadlines provided in national legislation, are extended (from three to four months on deciding whether or not to accept the obstacle; six to seven months for assessing the cross-border file).
- Inclusion of Recital 6b on financing: Member States may decide to allocate European Regional Development Fund resources under Interreg programmes and European Regional Development Fund or Cohesion Fund resources to support the setting-up of CBCPs. Including this recital would be a positive development, as the Regulation did not previously address financing. However, it must be noted that Interreg-funding is only limited and temporary: i.e. it would only provide a 'start-up fund' for CBCP(s).

ITEM is an initiative of Maastricht University (UM), the Dutch Centre of Expertise and Innovation on Demographic Changes (NEIMED), Zuyd Hogeschool, the city of Maastricht, the Euregio Meuse-Rhine (EMR) and the (Dutch) Province of Limburg.

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