

Central European Service for Cross-border Initiatives  
(CESCI)

# Contribution paper of CESCI to the public consultation on cross-border obstacles

## 2. Report on Legal Accessibility project



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# 1. Introduction of the Legal Accessibility project

## 1.1 Background

Everyday life of people, living in border areas, is complicated by large and small annoying problems which have legal and administrative nature. In some cases, these obstacles may cause thorns and injuries that determine a whole lifetime; nevertheless, in some cases, inaccessibility of a hospital that is located far from the border area can even lead to the death of an individual.

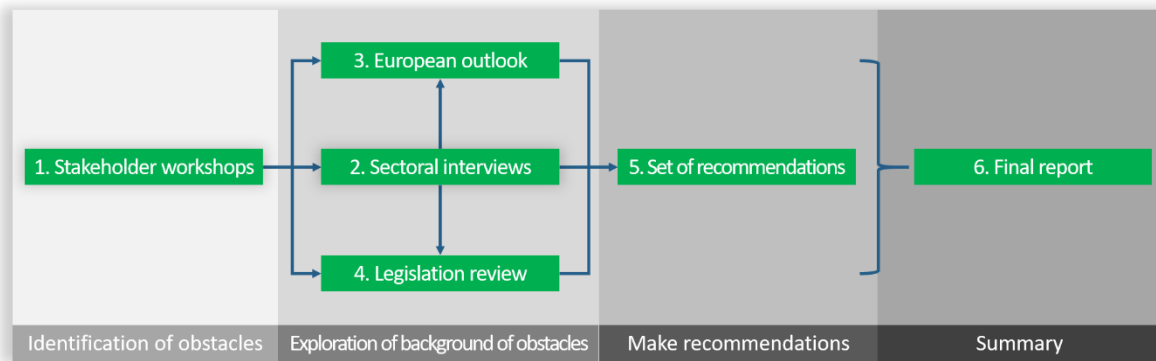
Corina Crețu, European Commissioner for Regional Policy, fights against this phenomenon, and she officially launched a consultation on 21<sup>st</sup> of September in 2015, in Vienna. The aim of this consultation is to identify and resolve the legal and administrative obstacles that hinder cooperation between member states. Online questionnaires, consultations, professional research, as well as stakeholder workshops were organized within the frames of this series of consultation by the end of 2016. The communication summarizing the results of the project called Cross-Border Review is expected to be published in the fall, 2017.

CESCO addressed the Ministry of Justice in Hungary with the project idea "Legal Accessibility", before triggering the consultations in the European Union. The project idea had a very similar thematic and methodological approach, and the aim of the project was to reduce the number of currently existing administrative obstacles along the Hungarian borders, thus strengthening cross-border cooperation. Lucky coincidence of these two initiatives makes it possible that the research carried out in Hungary lasting for eight months, and the concluded results can be incorporated into the conclusions and proposals emanating from the EU project.

## 1.2 Structure of the project

The first activity of the project "Legal Accessibility" was the series of stakeholder workshops organized in the Hungarian border areas (altogether 10 workshops). All the local participants involved in cross-border cooperation were invited to these stakeholder workshops. Roundtable discussion was used at the workshops to collect information about the obstacles experienced by the invited local participants. The primary purpose of the roundtable discussion was to identify problems on a territorial basis. Subsequently, an inventory of the problems articulated by the local actors was compiled.

In the next phase of the project, sectoral interviews were performed with experts. During these sectoral interviews, we revealed the legal and administrative dimensions of the articulated problems.



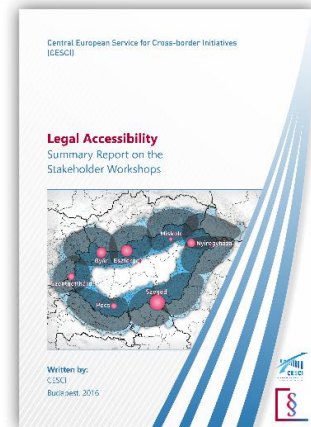
In parallel, a research in the field of European best practices on cross-border cooperation and identified obstacles was started. The legal inventory of the identified obstacles was further developed and specified through valuable information received during the sectoral interviews and through profound desk research. We have articulated legal and policy recommendations with the intention to dissolve the identified obstacles by using the sectoral interviews, the European outlook and results of the legislative research.

### 1.2.1 Stakeholder workshops

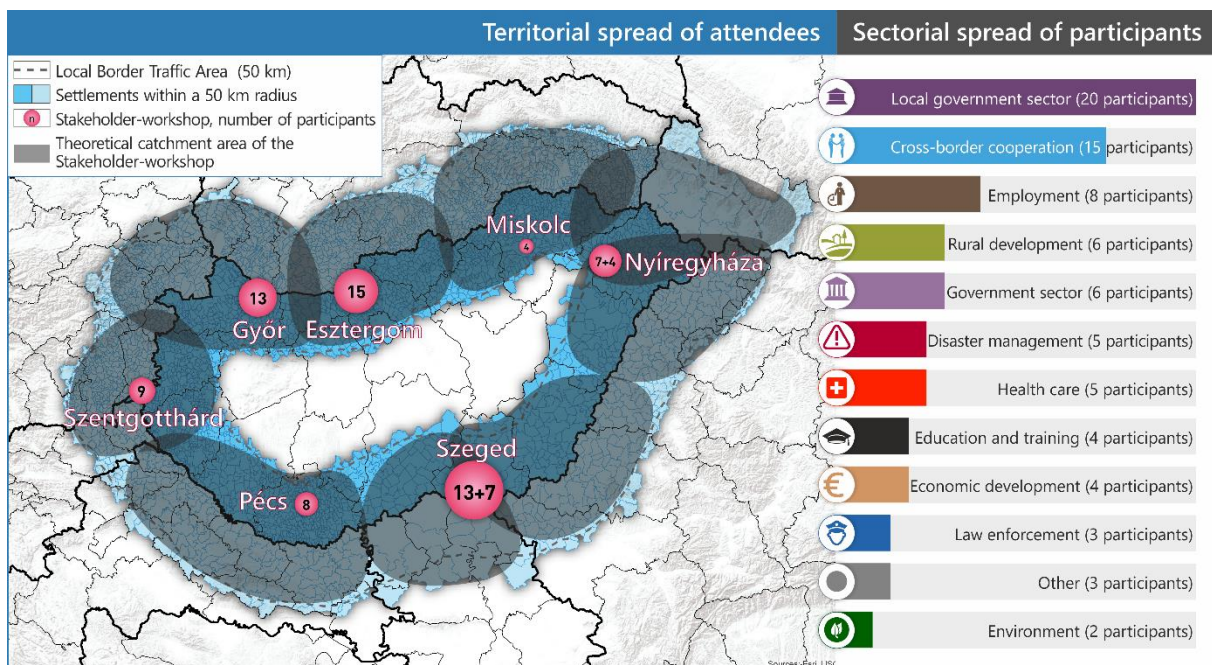
Within the frames of the project **workshops were organized along every border section of Hungary**. Local and active participants of cross-border cooperation, de-concentrated institutions, municipalities, universities, chambers of commerce, hospitals, national parks, project administrators, Euroregions, EGTCs, etc. were invited to these workshops. A total of seven cities (Esztergom, Győr, Miskolc, Nyíregyháza, Szeged, Szentgotthárd, Pécs) were selected, nine workshops were organized within a time period of three weeks. In two locations (Nyíregyháza and Szeged), two stakeholder workshops were organized considering the different status of border areas that are affected by those cities. In the nine workshops, a total of 81 people provided detailed information about the legal barriers referring to border areas. Stakeholder workshops in Esztergom, Győr and Szeged attracted the most people, the number of participants at each of these workshops was above 10. To achieve the identified target of the project, a further stakeholder workshop, with participation of EGTC managers, was organized in Mórahalom. As a result of these workshops, we successfully addressed 104 persons in the first phase of the project.



Stakeholder workshop in Esztergom



Front page of the Summary Report



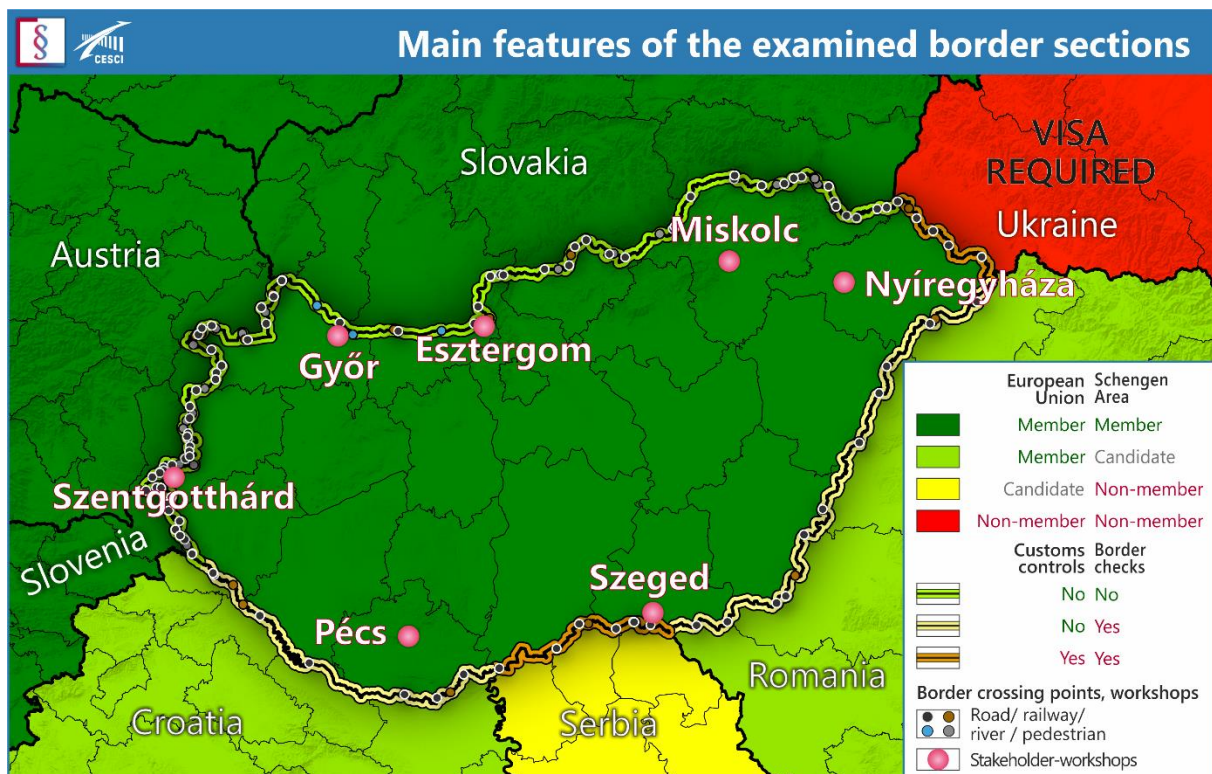
We collected information about local experiences of the participants through roundtable discussions. Information about every implemented stakeholder workshop was released on the webpage of the project. After the completion of the stakeholder workshop, a **summary report was prepared about the main findings and the identification of the main obstacles.**

Indicator	Target	Fulfilled	Unit
Number of implemented stakeholder workshops	9	9+1	pieces
Number of participants at stakeholder workshops	90	81+23	people
Number of prepared summary reports	1	1	pieces

The primary aim of the roundtable discussions was to undertake a territorial identification of obstacles.

About the barriers and obstacles that appear during cross-border interactions, it is important to underline that the borders of Hungary, from an administrative point of view, have recently become more open. Nevertheless, the scale of openness is highly dependent on the European integration status of the border area in question. Based on the level of openness, the border areas of Hungary can be divided into three groups:

- the Austrian, Slovak and the Slovenian borders are fully open border sections because these neighbouring countries are all members of both the European Union and of the Schengen area;
- the Croatian and Romanian borders are mainly open border sections, they are members of the European Union; however, the Schengen agreement has not yet been entered into force either in Croatia or in Romania;
- the Serbian and Ukrainian border sections are considered as external borders of the European Union, hence custom and police controls are in force; moreover, those who enter Hungary from Ukraine, are subject to visa requirements, too.



*Main features of the researched border sections*

The physical interoperability of borders is profoundly influenced by the number of border crossing points and by their density. These factors unanimously affect the intensity of interactions and the level of their institutionalisation, too. They both went through a dynamic expansion in the last decade in the case of open borders (especially Austria and Slovenia), thus the situation in this area is very favourable. Border-crossing possibilities with the Slovak Republic are more problematic although there are open borders between Slovakia and Hungary. To be more specific, the rivers Danube and the Ipoly generate a physical barrier; just like the river Drava with Croatia: therefore, the number of border crossings is the lowest here (the average distance thereof is more than 50 km there). During the recent years, at the Romanian border, which has a similar status as the Croatian one, border crossing opportunities have been expanded; however, the density of border crossings is still low since, because of the delay in Romania's joining process to the Schengen zone, the border crossing road infrastructure already in place has not been put in full operation – mostly because of the high costs required for the construction of the border station facilities. In case of Serbia and Ukraine, the number of border crossings is also low. The number of border crossings that are open day and night is only 3 in both cases.

The openness of borders and their physical interoperability are important factors, but they are not sufficient preconditions for cross-border interactions, especially in case of institutional cooperation. Linear relationship cannot be manifested between institutional relations and (theoretic) interoperability. Density of cross-border partnerships, Euroregions, territorial cooperation is the highest in the Slovak-Hungarian border area, and they can be found in a significant number on the Romanian and Croatian border, too. In contrast, their number is insignificant along the fully open Austrian and Slovenian borders. The number of similar forms of institutional cooperation is also growing along the Serbian and Ukrainian borders, however, the main limiting obstacle here is that they are not members of the European Union, thus they are defined as external territories, as well as their domestic legislation is hardly compatible with the legislative structure of the EU.




These regional implications are appropriately mirrored in the identified quantitative and qualitative indicators of obstacles. The number of barriers appears to be directly proportional to the intensity of interactions and cooperation, hence more people, institutions, organizations are involved in cross-border cooperation, the more potential obstacles appear. Border status appears as primarily important: in case of an open border, the focus will shift from the obvious problems (border crossing, or transfer of products) towards more sophisticated questions and issues (service exports and imports). Consequently, the handling of obstacles, albeit carried out mainly along a more or less uniformed methodology, required territorially rather different interventions.

The obstacles identified during the stakeholder workshops were completed, to a very limited extent, by obstacles that were revealed during the later stages of the project. As a first step, we tried to reveal the background of 60 detected obstacles; although, some obstacles were deleted from our list already at the beginning stage of the project for the following reasons:










- further clarification of the revealed obstacle was not possible,
- there was neither a legal nor an administrative background for the obstacle previously revealed.

Some other obstacles were merged without treating them as separate obstacles. Finally, after deleting and merging a number of obstacles, a total of 39 obstacles remained on the list as the object of our research.

The following table summarises the outcome of changes within the identified obstacles:

Sector	Code of the obstacle, short description		Utilization
	A1	There is no state support for students from across the borders	A1
	A2	Tuition fee of foreign students appear as revenue	deleted
	A3	Difficult to utilize the graduation degree that was received beyond the border	A3
	A4	Volunteering is required for graduation	A4
	A5	Different regulation of vocational education on two sides of the border	A5+A6+A7
	A6	Problematic acceptance of certificates and diplomas	
	A7	There is a need to undertake accreditation process of the degree of the pedagogic workers	
	A8	Acceptance of student cards (SK)	A8+A31
	A31	Different acceptance of student cards	
	A9	More time is needed for crossing of the borders	A9
	A10	The pedestrian crossing was terminated in Záhony	A10
	A11	Ukrainian visa requirements	A11
	A12	Transfer of (service) weapon is prohibited	A11
	A13	Transfer of animals through the borders is limited	A13
	A14	Cross-border grazing of animals is not possible	A14
	A15	Duty process on free publications	A15+A54+A59
	A54	Limiting the validity of documents	
	A59	Validity of ATA cards	
	A16	Different regulation in the domain of local products	A16+A17+A20
	A17	Hungarian regulation on local market in 40 kms from the border	
	A20	Establishment of a cross-border local market	
	A18	Different food safety standards	A18
	A19	The vendor needs to register as subject of VAT	A19
	A21	Serbian border: need for a transporter	A21



Sector	Code of the obstacle, short description	Utilization
	A22 Local products in public catering	A22
	A23 Nonexistence of EU-wide regulation on trademarks	A23
	A24 Crossing of border by ambulance car	A24
	A25 Integration of health care information systems	A25
	A26 Cross-border mobility of patient is not possible	A26
	A27 Paying of social security tax in more countries	A27+A28+A29
	A28 Right to patient care (stay)	
	A29 The foreign legal relationship is not automatically accepted	
	A30 Cross-border bus service	A30
	A32 Border crossing of undergraduate students	A32
	A33 Driving a car with foreign license plate number in Hungary	A33
	A34 The Serbian driving license is not accepted in Hungary	A34
	A35 Employing a foreigner in the Hungarian health care system	A35
	A36 Bureaucracy in the Hungarian labour market	A36
	A37 Difficult recognition of certificates and diplomas	deleted
	A38 Differences in terminology in the domain of employment	A38
	A39 Travelling of the Slovak government officials beyond the border	deleted
	A40 Hardships in operating an EGTC (RO)	A40
	A41 Croatia – joint regional representation with Hungary	deleted
	A42 Procurement by countries	A42
	A43 Accounting problems with cross-border projects	deleted
	A44 Pre-financing support of governmental institutions	A44
	A45 Management of expropriations in the case of cross-border projects	deleted
	A46 Differences in classification of territory	deleted
	A47 Differences between procedures of construction authorities	A47
	A48 Problems around project-level legal harmonization	deleted
	A49 Installing of underground cable is considered as border crossing	deleted
	A50 Lack of information sharing between programs	A50
	A51 Cooperation between disaster management authorities	A51+A52+A57
	A52 Cooperation in the field of disaster management (HU-AT)	
	A57 Cooperation in case of heavy snowfall	
	A53 Acceptance of church weddings (SK-HU)	A53
	A55 Change of name in the case of naturalization	A55
	A56 Common drinking water supply and/or sewage network	A56
	A58 Banking partner card without home address card	A58

## 1.2.2 Exploration of background of the obstacles

### *European outlook*

To articulate adequate proposals for solution, there was a need to examine other European states and the way how they treat problems, what kind of solutions they propose. Therefore, we made a European outlook concentrating on those European spaces and areas that have already accumulated appropriate experience and knowledge in the field of cross-border cooperation.

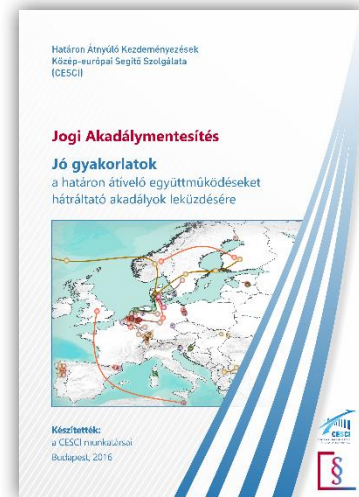
Our research was built on the so called 'desk research' methodology, thus we made a systematic gathering of good examples, their research, categorization, identification and evaluation of obstacles, and we explored the possible and implemented solutions as well.

Cross-border database and toolkit of the EDEN<sup>1</sup> portal, developed by ISIG, commissioned by the Council of Europe, was a valuable help in the process of identifying relevant information on institutionalised cooperation. Furthermore, a useful source of information was the extensive information database<sup>2</sup> that is accessible on the webpage of the French Mission Opérationnelle Transfrontalière (MOT), too.

During our research, we contacted some foreign cross-border cooperating parties and management organisations that coordinate cross-border cooperation, with the aim to receive updated and actual information, thus forming a clear picture about their obstacles and about their applied solutions.

We started the introduction of every topic by a comprehensive and overall list of items that helps an easy orientation of the reader within the text of the study. Every good example was marked with a letter 'J' and with one number, thus their linking to obstacles became easy and transparent.







The document contains a detailed research of 52 good examples, and numerous additional models were mentioned. These good examples and models can be a useful source of information that can be effectively used in the process of eliminating Hungarian obstacles.



<sup>1</sup> <http://cbc.isig.it/>

<sup>2</sup> <http://www.espaces-transfrontaliers.org/ressources/territoires/>

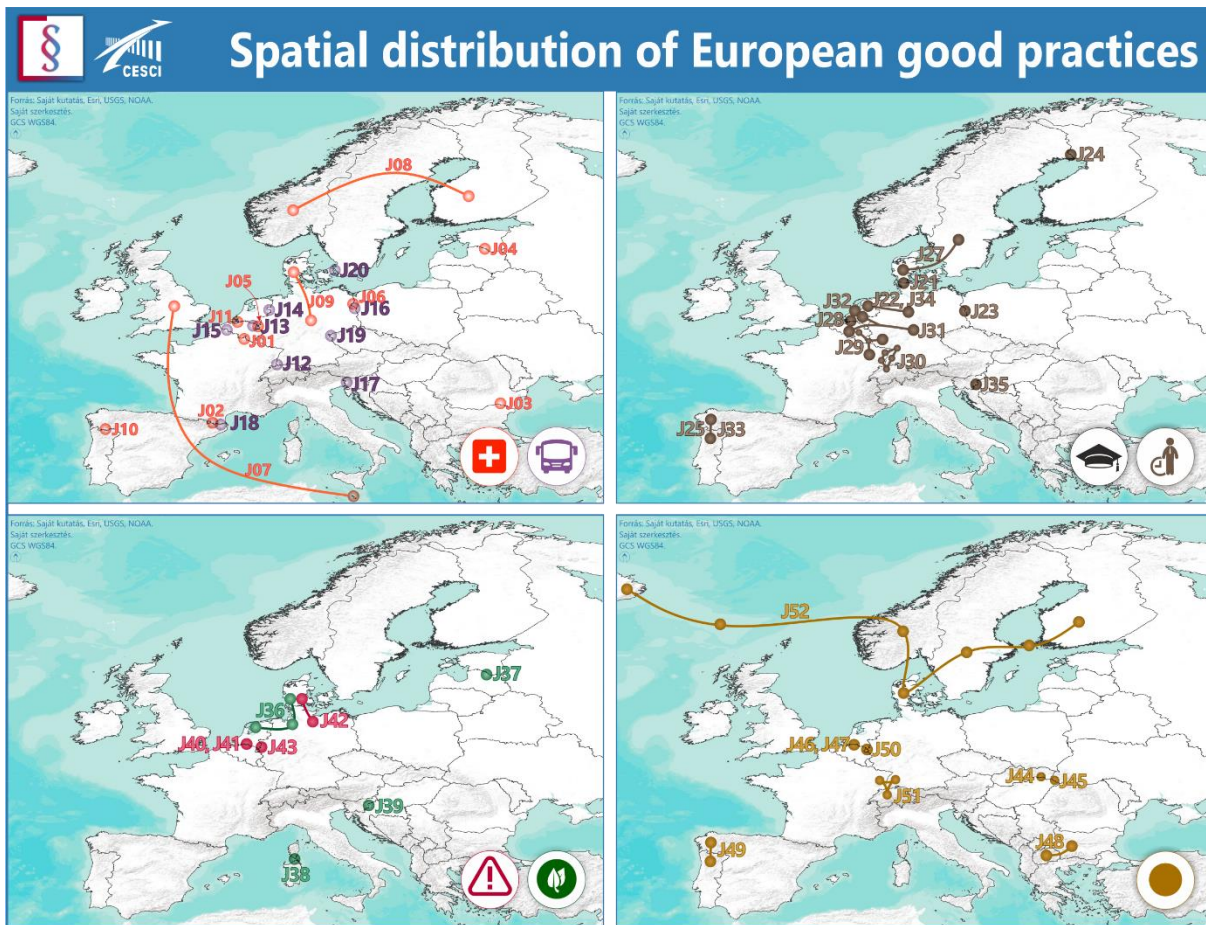
The good examples explored are categorised in the following structure:

Topic of good examples		Number of good examples with detailed exploration
	Cross-border health care and social cooperation	11
	Cross-border mobility and community transport cooperation	9
	Cross-border educational and labour market cooperation	15
	Cross-border environmental cooperation	4
	Cross-border crisis management cooperation	4
	Other non-specified forms of cross-border cooperation	9

In the last group of the study, we described several institutional models for state-level coordination that offered solution to certain cross-border problems and which might be useful and instructive for continuing the project.

Moreover, **the prepared collection of good practices** contains a rich bibliography. Specifically, it involves more than 140 bibliographic items. This huge bibliography might be very useful for those professionals who are interested in this specific field of research.

Indicator	Target	Fulfilled	Unit
Collection of best practices	1	1	piece



*Spatial distribution of European good practices explored in the compilation*

## Sectoral interviews

To fully and comprehensively understand the legal obstacles of cross-border cooperation, it is necessary to analyse the existing legal-regulatory environment, as well as to clearly identify the restrictive elements. The legal environment and background can be effectively understood with help of those professionals who themselves take part in the formulation, the enforcement and the operation of the regulatory system, or, for that matter, in solving the problems arising from the existence of regulations. Therefore, the exploration of both the legal environment and background was based on a series of interviews, where professionals, who fulfilled the criteria required, were consulted.

The final aim of the project “*Legal Accessibility*” was to propose amendments, or in some cases even a reversal of those legal structures that limited cross-border cooperation; nevertheless, during the interviews, we had to consider the fact that the legal provisions were embodied within a wider sectoral or societal context which could not be easily neglected. They have a limiting role in the cross-border areas, but at the same time they fulfil an important task in the regulation of complex issues. During the interviews, we had to understand not only the specific identified parts of the regulation, but we had to substantially comprehend the regulatory and legal system as such.

We tried to consistently follow two basic aspects in the process of identifying the interviewees. These aspects were the following: legal competence, as well as professional experience of the interviewees within the specific field. In those sectors that experienced several notable institutional changes, we tried to identify and we preferred those experts, who had professional experience, even in cases when they were not anymore in a responsible position.

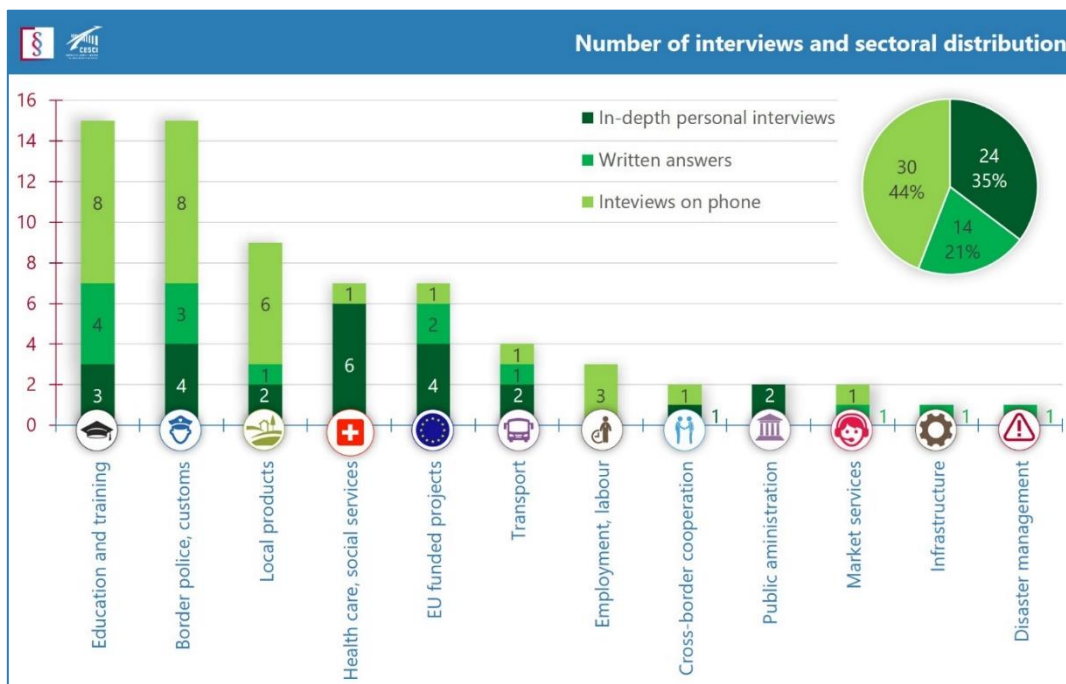
The sectoral approach of the interviews resulted in the fact that the interviewees were mainly chosen from central supervisory bodies, institutions or authorities. Consequently, their competences and professional experience rather mirrored a sectoral approach, instead of their spatial skills (related to cross-border regions). Our interviews were mainly concentrated on Budapest, mainly because of the centralized governmental and administrative system prevalent in Hungary. An exception to this interviewing trend was in those specific areas (regional organization of transport, local products, custom affairs) where key players were usually available in the border areas. The network of the relevant professionals and experts was previously completed through *desk research*. Using the results of this preliminary research, we sent out approximately 50 invitations with the aim to ask them to participate in the interviews.



After a long and thorough coordination **24 personal in-depth interviews were performed with the representatives of 8 different sectors.**

Indicator	Target	Fulfilled	Unit
Number of interviews	24	<b>24 in-depth interviews</b> <b>30 telephone consultations</b> <b>14 written interviews</b>	pieces
Number of sectors affected by the interviews	8	<b>8 (in-depth interviews)</b> <b>4 (other)</b>	people
Number of prepared summary reports	1	<b>1</b>	pieces

Half of the interview inquiries and requests ended without performing an interview. This proportion is a result of varied reasons: in some cases, public contacts were not functional or we did not receive any reply to our repeated interview requests. In other cases, the identified professionals denied their participation in the interview and they underlined their insufficient insight within the specific topic. In other cases, the identified professionals of governmental authorities rejected interviews in absence of higher approval. There was even a case when the interview was rejected because the requested institution expected the termination of its own existence, thus they could not undertake in-depth interviews.



Number and sectoral distribution of the performed interviews

We received **written answers (14 in total)** for several of our interview requests. Some of these written interviews contained highly relevant and detailed information. Moreover, it happened in numerous other cases that the exploration and clarification of the background was helped by telephone consultations. **Altogether, we performed 30 telephone consultations** with representatives of various sectors. Further requests, mainly via telephone, but also in written form were generated to clarify part of the information we had previously considered uncertain.

A **summary report was prepared** about the performed sectoral interviews and the report was published on the website of the project.

During the information gathering process, the regional extension of the professional jurisdiction, which meant the whole of the country, caused a problem in some cases: besides being deeply familiar with the domestic regulatory-legal environment, our interview subjects only had partial, superficial information about other countries' relevant regulations. This is understandable as during their daily work they can and are obliged to act only in harmony with domestic regulations.

In relation to the procedure, it is worth mentioning another main consequence of the interviews, namely that legal obstacle as a concept is rather relative. From the perspective of cross-border cooperation, the adjustment point, which has an important regulatory role for the operation of a given area, is an obstacle. Without the adjustment point, the activities and events of the given sphere would sometimes become hardly manageable, would lack transparency and would, in some cases, even lead to an anarchy. Moreover, in some areas (animal health care, border control) any kind of deregulation would cause serious public health or security risks, therefore we had to approach these fields of legal regulation with extra caution and the legitimacy of certain obstacles had to be assessed with increased thoroughness.

Nevertheless, the interviewed experts were familiar with and acknowledged the revealed problems and legal obstacles, although they had rather different thoughts about them. Basically, the experts expressed three main reactions in relation to a given problem:

- **The problem does exist, but at the same time the legal background causing it is, as a matter of fact, very important in ensuring the operation of certain spheres**, therefore the obstruction of cross-border relationships, flows and interactions is the "necessary evil" in order to reach certain "higher purposes". Security and public health regulations were typically like this, but to a certain extent, the matter of cross-border transport or public administration (e.g. data directory systems) falls into this category, too.
- **They have previously encountered the revealed and introduced problem** (or it even comes up regularly), **however, this is not primarily the fault of the**

**regulation in place, but that of the inappropriate practices’.** In some cases, for example, the regulation would even allow for solutions facilitating cross-border interaction, or there is an initiative that could overcome this obstacle, but inappropriate knowledge or ignorance of these causes even strengthens the dividing nature of borders between national systems. A typical area of this is vocational training, where there are certain EU initiatives for interoperability (e.g. EuroPass), but it is simply not used by some countries. In other cases, for example in the field of customs operation, the lack of professional competence and knowledge of national legislation is what causes certain obstacles.

- The third characteristic is that **they basically acknowledge the existence of the problem and of the related obstacle, but they also did not hesitate to point out alternative options left by the regulation.** An example for this is the entry into registration in a country as an instrument to meet local requirements. As we will see, obligations in return for certain economic advantages (e.g. free education, treatment like a domestic company) can be circumvented in a country with administrative registration (uncontrollable for other countries) in the case of individuals, and with the similarly administrative establishment of business sites in the case of economic-business organisations.

However, they cannot be viewed as exclusive, the above-mentioned answers summarize the main approaches quite well. A common point of them is that they do not aim changes and claims for them, and no propositions were made on the part of those questioned. Instead, they rather thought in terms of harmonization and mainly in utilizing the possibilities created by the existing (primarily EU level) initiatives, and suggested concrete changes less that fundamentally transform their own working environment.



## Analysis of the legislations

During the legal analytical phase, we reviewed the legal environment of the obstacles identified at the workshops.

The indicator of the legal analysis defined previously was fulfilled by the **elaboration of the legal inventory**:

Indicator	Target	Fulfilled	Unit
Legal inventory	1	1	piece

In the framework of the legal inventory, with respect to the 39 obstacles or groups of obstacles discussed in detail earlier we reviewed in total nearly 250 provisions. Among these, there were both EU and Hungarian provisions. In some cases, we analysed the legislations of the neighbouring countries, as well. Beside the desk research, in some cases, it became necessary to negotiate with the relevant authorities with a view to clarifying the legislators' or the law enforcement officials' interpretation.

During the compilation process of the legal inventory, we used the National Inventory of Legislations<sup>3</sup> in case of the Hungarian law, the EUR-Lex<sup>4</sup> database for the EU provisions and the N-Lex<sup>5</sup> database for those of the neighbouring countries.

The legal framework of the obstacles identified at the workshops shows a mixed picture after the analysis of the legislations.

In the case of several specified obstacles, it cannot be set out that we clearly face a legal barrier. Their sectoral field is ruled according to long-term policy principles and interests, which apparently do not allow room for manoeuvring to modify the relevant legislations (e.g. public security, animal health issues).

In the respect of certain barriers, real progress can be envisaged only if the policy attitude of the relevant states moves toward cooperation. It is the case with local products. Territorial delineation of the particular provisions and the limitation of the territorial jurisdiction of the authorities currently prevent the citizens living in border areas to have access to local products with as wide a range as e.g. their counterparts living in more central regions of the country.



<sup>3</sup> Nemzeti Jogszabálytár. URL: <http://njt.hu/> (Last download: 27<sup>th</sup> September 2016)

<sup>4</sup> EUR-Lex. URL: <http://eur-lex.europa.eu/homepage.html> (Last download: 27<sup>th</sup> September 2016)

<sup>5</sup> N-Lex. URL: <http://eur-lex.europa.eu/n-lex/index.hu> (Last download: 27<sup>th</sup> September 2016)

In some cases, the current legislation is comprehensible and well-justified along policy principles but it hinders cross-border cooperation in a hardly acceptable way. It is the case with the duty-free goods transported to third countries where regardless of that duties are not applied for these products and materials; the customs procedures are not avoidable.

In the respect of several cases, during the analysis of the legal environment it became clear that no legal obstacle backs the issue but the stakeholders have false or inaccurate information on that.

As a result of the legal analysis, we had the opportunity to identify several cases where the design of the legislation facilitating cross-border interactions already started or it has been under way for a longer time. A few of them already have tangible outputs and eases the daily life of the people affected by cross-border interactions. However, these initiatives typically need further improvements and completion.

As a result of our examinations, we found 2 obstacles requiring international legal harmonisation, 12 ones which make both legal and policy interventions necessary. Further, we identified one practical and one policy problem, as well as 3 barriers which, apart from legislation, contain also other factors.

## 1.2.2 Set of recommendations

Based on the research activities carried out during the previous phases of the *Legal accessibility* project, in the subsequent stage we drafted recommendations regarding the obstacles identified at the stakeholder workshops. While doing so, we made a priority for four sectors: **cross-border mobility and public transport, cross-border labour market cooperation, health care services and local products**. These topics were treated in a comprehensive and integrated way (i.e. several obstacles have been merged into one larger subject) and this way we formulated concrete policy and legal recommendations.



We reflected separately on the barriers not classified under the four main sectors and we also made a separate note if the particular obstacle cannot be resolved.

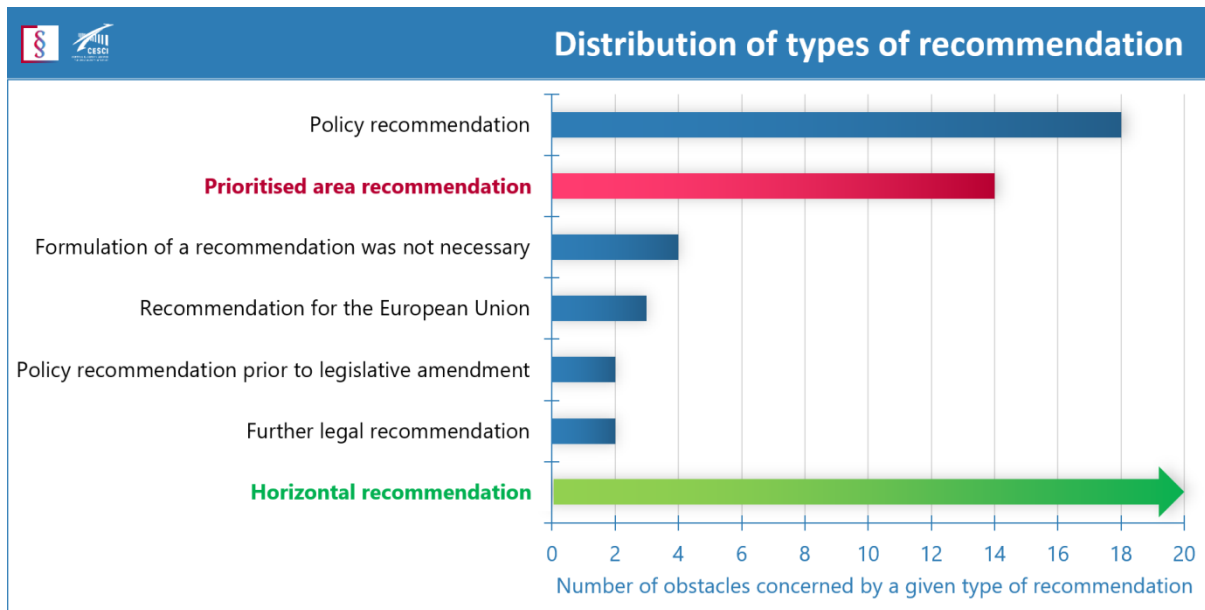
We made three types of recommendations for the removal of the barriers: if it was possible, we drafted a legal text proposal; in other cases, we made a proposal to policy interventions; and if we considered the room for manoeuvring too narrow for national level interventions, we initiated an EU level solution.

The legal recommendations can be classified again into three groups:

- proposals of bilateral agreements, the wording of the agreement included;
- proposals for modification of particular legal text;
- guidelines for the necessary modification of the legal environment.

The study also contains a horizontal or, in other words, a „meta-level” chapter which, reaching beyond the sectoral based approach makes proposals on the one hand to apply EU and national level solutions for informing of the citizens; and, on the other hand, based on the example of the Nordic Council, to launch institutionalised mechanisms, by also involving neighbouring countries, which make the problems caused by the administrative borders manageable.



The figure below demonstrates the share of types of recommendations in a comprehensive way. The four prioritised areas concern altogether 14 previously identified obstacles and for each of them we drafted, applying the method mentioned before, complex recommendations including both legal and policy recommendations and proposals addressed to the European Union. As it is indicated on the figure, the horizontal recommendations formulated based on the experience of the research conducted after the identification of the barriers are relevant in relation to the resolution of all obstacles affecting border areas.








By drawing up the **list of recommendations**, we fulfilled the requirements for the indicator previously defined for this phase of the project:

Indicator	Target	Fulfilled	Unit
Compilation of recommendations	1	1	piece

In the table on the next page we indicate the types of recommendations by the identified barriers. As can be seen, in most cases, if, because of the background analysis, the obstacle is considered as a legal barrier, we typically drafted complex recommendations within the framework of a prioritised area. In respect of non-legal obstacles, we preferred to make policy recommendations.

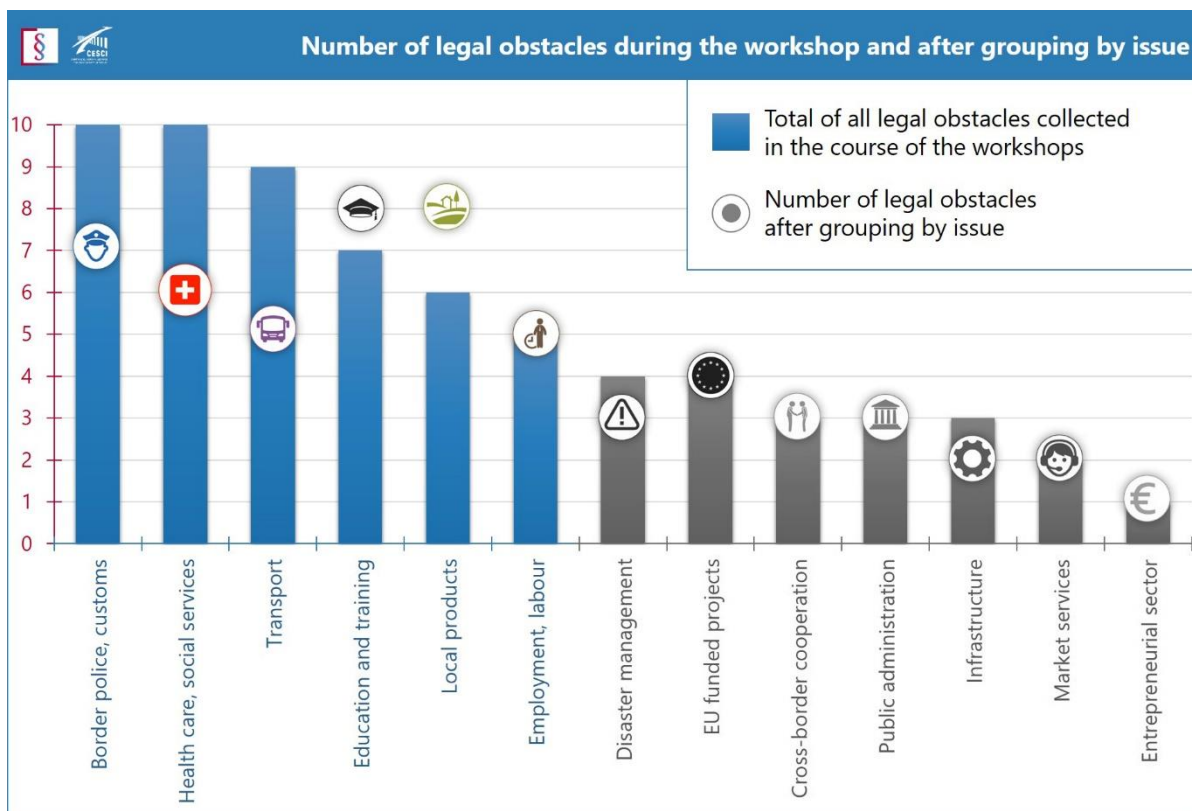
Sector	Code and brief description of the obstacle		Following legal analysis	Type of recommendation
	A1	There is no state support for students from beyond the borders	Legal and policy obstacle	Policy decision preceding the amendment of the law
	A3	Difficult to utilize the graduation degree that was received beyond the border	Practical obstacle	Policy recommendation
	A4	Volunteering is required for graduation	It is not an obstacle	Policy recommendation
	A5	Different regulation of vocational education on two sides of the border	Legal and policy obstacle	Prioritised area recommendation
	A6	Problematic acceptance of certificates and diplomas		
	A7	There is a need to undertake accreditation process of the degree of the pedagogic workers		
	A8	Acceptance of student cards (SK)	Obstacle requiring international legal harmonisation	Prioritised area recommendation
	A31	Different acceptance of student cards		
	A9	More time is needed for crossing of the borders	Legal and policy obstacle	Prioritised area recommendation
	A10	The pedestrian crossing was closed in Záhony	Basically, it is not a legal but rather an infrastructural barrier	Policy level decision preceding the amendment and the necessary infrastructural development
	A11	Ukrainian visa requirements	Rather policy obstacle	Policy recommendation
	A12	Transfer of (service) weapon is prohibited	It is not merely a legal barrier (but an issue of public security, as well)	Policy recommendation
	A13	Transfer of animals across the borders is limited	It is not merely a legal barrier (but an issue of animal health, as well)	Policy recommendation, and recommendation addressed to the European Union
	A14	Cross-border grazing of animals is not possible	It is not merely a legal barrier (but an issue of animal health, as well)	Policy recommendation
	A15	Duty process on free publications	Obstacle requiring international legal harmonisation	Policy recommendation, and recommendation addressed to the European Union
	A54	Limiting the validity of documents		
A59	Validity of ATA cards			

Sector	Code and brief description of the obstacle		Following legal analysis	Type of recommendation
	A16	Different regulation in the domain of local products	Legal and policy obstacle	Prioritised area recommendation
	A17	Hungarian regulation of local market (40 km)		
	A20	Establishment of a cross-border local market		
	A18	Different food safety standards	Legal and policy obstacle	Prioritised area recommendation
	A19	The vendor needs to register as subject of VAT	Legal and policy obstacle	Prioritised area recommendation
	A21	Serbian border: need for a transporter	Legal and policy obstacle	Policy recommendation
	A22	Local products in public catering	It is not an obstacle	Policy recommendation
	A23	Nonexistence of EU-wide regulation on trademarks	It is not an obstacle	Prioritised area recommendation
	A24	Crossing of border by ambulance car	Legal and policy obstacle	Prioritised area recommendation
	A25	Integration of health care information systems	Legal and policy obstacle	Prioritised area recommendation
	A26	Cross-border mobility of patients is not possible	Other obstacle	Prioritised area recommendation
	A27	Paying of social security tax in more countries	It is not an obstacle	Policy recommendation
	A28	Right to patient care (stay)		
	A29	The foreign legal relationship is not automatically accepted		
	A30	Cross-border bus service	Legal and policy obstacle	Prioritised area recommendation
	A32	Border crossing of undergraduate students	It is not an obstacle	Policy recommendation
	A33	Driving a car with foreign license plate number in Hungary	It is not an obstacle	Policy recommendation
	A34	The Serbian driving license is not accepted in Hungary	It is not an obstacle	Policy recommendation
	A35	Employing of a foreigner in the Hungarian health care system	It is not an obstacle	Policy recommendation
	A36	Bureaucracy in the Hungarian labour market	It is not an obstacle	Prioritised area recommendation
	A38	Differences in terminology in the domain of employment	Legal and policy obstacle	Prioritised area recommendation
	A40	Difficulties in operating an EGTC (RO)	Basically, it is not a legal barrier	Policy recommendation

Sector	Code and brief description of the obstacle		Following legal analysis	Type of recommendation
	A42	Procurement according to countries	It is not an obstacle	Drafting of recommendation is not necessary
	A44	Pre-financing support of governmental institutions	It is not an obstacle	Legal recommendation
	A47	Differences between procedures of construction authorities	Legal and policy obstacle	Legal and policy recommendation
	A50	Lack of information sharing between programs	Basically, it is not a legal barrier	Recommendation addressed to the European Union
	A51	Cooperation between disaster management authorities	It is not an obstacle	Drafting of recommendation is not necessary
	A52	Cooperation in the field of disaster management (HU-AT)		
	A57	Cooperation in case of heavy snowfall		
	A53	Acceptance of church wedding (SK-HU)	It is not an obstacle	Drafting of recommendation is not necessary
	A55	Change of name in the case of naturalization	Other obstacle	Policy recommendation
	A56	Common drinking water supply and/or sewage network	It is not an obstacle	Drafting of recommendation (at the current situation) is not necessary
	A58	Banking partner card without home address card	Basically, it is not a legal barrier	Policy recommendation

## 2. Sectoral recommendations to improve Legal Accessibility in priority areas

Stakeholder workshops in the first phase of the project have revealed several obstacles to cross-border cohesion, which are of varied importance and concern a wide range of areas. In the followings, we are focusing on four areas that either workshop participants or we have considered highly important regarding Hungarian border areas. We have also come up with a set of complex proposals with the aim to lift the barriers of these priority areas.



### Physical Mobility



in that regard:  
facilitation of border  
crossing



### Labor Mobility



in that regard:  
recognition of  
professional  
qualifications



### Healthcare



### Local Products





In each case, our complex proposals include an outline of the obstacles regarding the given area, followed by our research findings on sectoral information and the legal framework. Afterwards, the prospects for adopting best practices from our European outlook are taken into consideration. Finally, we make legal and policy proposals for the decision-making bodies of the Hungarian government or the European Union.

## 2.1 Mobility

By limiting the interoperability of borders, physical and administrative barriers have a fundamental influence on the quality and quantity of cross-border interactions. In spite of physical proximity, border crossing difficulties are a hindrance to social cohesion. In this respect, the different statuses of Hungarian borders create different sets of conditions for cooperation.

In the last years, Hungarian borders have undergone a significant change concerning cross-border interactions. This change, however, is rather different by border sections. One common feature is that these border sections have been gradually opening up. However, this approach depends to a large extent on the status of the border section (see the map and the clarification thereof in the Introduction chapter).

The participants of the stakeholder workshops identified a large number of obstacles to mobility, of which the following ones are considered of the highest importance:

- **cross-border workers' difficulties with border crossing;**
- **the limitation of regular cross-border passenger transport services, primarily through the ban on cabotage;**
- **students' limited access to fare reductions across the border.**

Scarce and spacially limited passenger transport services are unable to follow and serve the labour market and functional needs of localities, which results in limited mobility. The organisation of services is hindered by a wide range of obstacles; administrative barriers to education, trainings, and jobs leave border residents in a disadvantaged position. The lack of public transport facilities favours the run-up of private transport, which raises concern about environmental and economic sustainability, too.

Actually, cross-border public transportation services are very often limited by the border-crossing procedure itself. Long and incalculable queue time and strict border control along the external borders of the Schengen area seriously hold back employment, and participation in education and training.

Furthermore, stakeholder workshops have identified obstacles that concern cross-border youth mobility specifically, as there is no guarantee that a student is entitled to the same scope of benefits for the services (e.g. public transport, entrance fees for museums) in the neighboring country as its young nationals. Entitlement issues are therefore another important hindering factor for cross-border mobility.

**Our proposals aim to remove barriers and promote mobility through three channels: facilitating physical interoperability, lifting the ban on cabotage in some specific cases, and the harmonisation of the network of student certificates and discounts.**

### 2.1.1 Facilitating Cross-Border Workers' Border Crossing Procedure

The low interoperability of the external Schengen borders of Hungary has a fundamental effect on cross-border mobility and initiatives of all kind. The problem is the most pressing along the borders with Ukraine, Serbia, Croatia, and Romania. Unlike Romania and Croatia, Serbia and Ukraine are not EU members, therefore their citizens are still subject to visa requirement. Communication and regular border crossings are made incalculable, burdensome, and in certain cases impossible by long queue time and traffic congestions caused by strict border regime measures, seriously holding back territorial, economic and social cohesion. In addition, employees' and students' performance is adversely affected by long hours of waiting at the border, which often causes them to cross the border early in the morning and return home late at night.

#### 2.1.1.1 Legal Framework

Facilitation of the regulations prove the easiest to introduce in the case of EU member Romania. Accordingly, Romanian citizens enjoy the right of free movement, therefore provisions of the *Regulation (EU) 2016/399 of the European Parliament and of the Council* may be applied in their case. Article 8(2) in Chapter II provides for the so-called minimum check. According to recital 16 of the Regulation, *"In order to reduce the waiting times of persons enjoying the Union right of free movement, separate lanes, indicated by uniform signs in all Member States, should, where circumstances allow, be provided at border crossing points."* In accordance with Article 10, Member States should provide separate signposted lanes for persons with the right of free movement (including Romanian citizens).

It is important to point out that Annex VII, item 5 addresses cross-border workers separately. *"5.2. By way of derogation from Article 8, cross-border workers who are well known to the border guards owing to their frequent crossing of the border at the same border crossing point and who have not been revealed by an initial check to be the subject of an alert in the SIS [Schengen Information System] or in a national data file shall be subject only to random checks to ensure that they hold a valid document authorising them to cross the border and fulfil the necessary entry conditions. Thorough checks shall be carried out on those persons from time to time, without warning and at irregular intervals."* In accordance with the decision taken by the Hungarian Kúria (The Supreme

Court) in 2015, allowing cross-border workers to cross the Romanian border without carrying out a minimum check does not constitute an offence.

In the case of Ukraine, regulations are slightly different and more complicated. Relief facilities on local border traffic could be helpful for Ukrainian citizens in the border areas. The *Regulation (EC) No. 1931/2006 laying down rules on local border traffic at the external land borders of the Member States and amending the provisions of the Schengen Convention* (hereinafter referred to as the Regulation on local border traffic) recognizes all agreements on local border traffic between Member States and neighbouring third countries, therefore between Ukraine and Hungary as well. Although the Government of the Republic of Hungary and the Ukrainian Cabinet of Ministers concluded an agreement on 18 September 2007 in Uzhgorod (Ukraine) with a view to regulating local border traffic, this agreement lacks provisions for the facilitation of border crossing.

### 2.1.1.2 Recommendations

Considering the current regulatory environment and the available legal opportunities and amendments, we suggest the following legal and policy proposals.

#### *Legal recommendations*

The *Agreement between the Government of the Republic of Hungary and the Cabinet of Ministers of Ukraine on the rules of local border traffic*, signed on 18 September 2007 in Uzhgorod, should be amended, with regard to the installation of separate lanes at the concerned border crossing points, and to the facilitation of border crossing of cross-border workers. In this regard, we recommend the harmonisation of laws by amending bilateral and national regulations with border crossing facilitating schemes set out in Article 15 of the *Regulation on local border traffic*, with regard to technical possibilities:

- reserving specific lanes to border residents at ordinary border crossing points (Article 15(1b));
- at the lanes referred to in the previous paragraph, cross-border workers who are well known to the border guards owing to their frequent crossing of the border, should only be subject to random checks. Thorough checks shall be carried out on those persons from time to time, without warning and at irregular intervals. (Article 15(3)).

Prior to any amendment to the bilateral agreements on local border traffic, relevant Member States shall consult the Commission regarding the compatibility of *Regulations on local border traffic*.

### ***Policy recommendation***

Under the provisions of *Regulation (EU) No 399/2016*, Romanian and Croatian citizens enjoy the EU right of free movement, therefore it is recommended to coordinate border control policies and the implementation of necessary developments at border crossing points between neighbouring countries by concluding bilateral agreements and national government resolutions, in order to facilitate border crossing for these citizens.

With regard to the Romanian–Hungarian border, we recommend the adoption of a border control policy that is in line with the provisions of *Schengen Borders Code* on cross-border workers. According to the provision, cross-border workers who are well known to the border guards owing to their frequent crossing of the border at the same border crossing point shall be subject only to random checks.

The adoption of such border control practice would not only facilitate border crossing in peak hours, but (depending on the infrastructure and personnel of the given border crossing point) would also designate a separate lane for cross-border workers to reach an optimal volume of cross-border traffic.

## 2.1.2 The Development of Regular Cross-Border Passenger Transport Services

Lifting barriers to cross-border passenger transport would be very important in border areas with strong functional links, especially in regions where this need is fueled by labour market integration or the use of central services such as trade, market services, education, culture, and healthcare services. Currently, the ban on cabotage (*regular transport services between two points within a country, carried out by an international operator*) has been limiting cross-border labour migration and the potentials of functional influencing zones split by the border. Additionally, labour market anomalies, distorted urban zones, and declining territorial and cost efficiency raise further concern. If international transport services, which generally cover a relatively short distance, offered domestic journeys as well, transport operators could realize more profit by meeting the needs of public transport in the country and in the catchment area across the border.

It is no coincidence that an often mentioned problem during stakeholder workshops and interviews was that cross-border services were regarded as international. International regular services may not be used for domestic journey, therefore the point of arrival must be situated in the neighbouring country.

### 2.1.2.1 Legal Framework

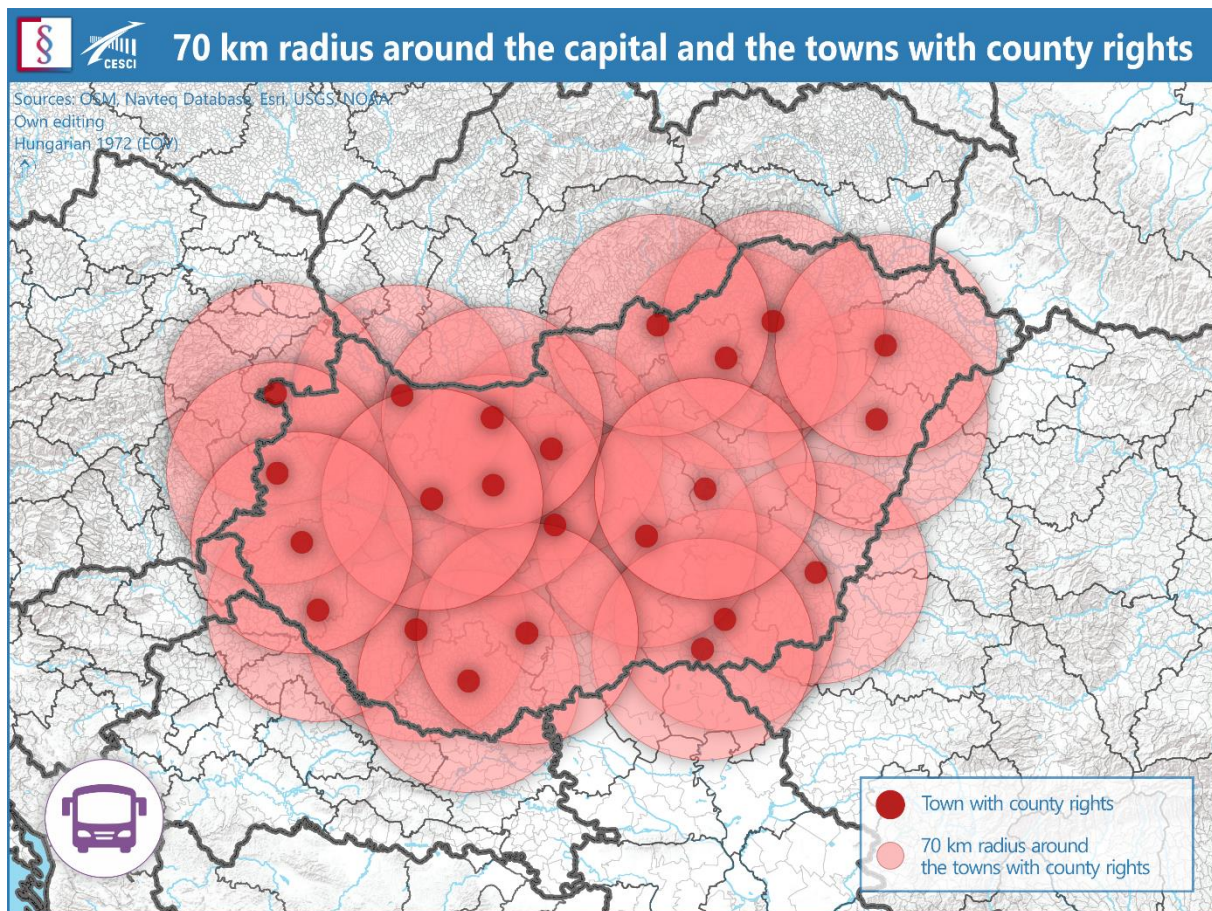
According to *Regulation (EC) No 1073/2009 on common rules for access to the international market for coach and bus services*, "cabotage operations" refers to either:

- national road passenger services for hire and reward carried out on a temporary basis by a carrier in a host Member State, or
- the picking up and setting down of passengers within the same Member State, in the course of a regular international service, in compliance with the provisions of this Regulation, provided that it is not the principal purpose of the service.

*Regulation (EC) No 1073/2009* addresses authorised cabotage operations, but does not make provision for such operations in areas where cross-border interactions most necessitate them. In accordance with Article 15 of the Regulation, regular international services shall not be performed to meet "the needs of an urban centre or conurbation, or transport needs between it and the surrounding areas." The Regulation precludes cabotage operations in urban centres and conurbation areas, which reduces the quality of life of those living in functional cross-border surrounding areas. According to the Regulation, "Where regular services are concerned, only regular services provided as part of a regular international service, excluding urban and suburban services, should be opened up to non-resident carriers, subject to certain conditions, and in particular to the legislation in force in the host Member State."

A further problem identified as regards the community regulation on cabotage is that according to the Regulation, “[...] the grounds for refusal relating to the relevant market should be either that the service applied for would seriously affect the viability of a comparable service operated under one or more public service contracts on the direct sections concerned or that the principal purpose of the service is not to carry passengers between stops located in different Member States.”

We consulted with the competent authorities to clarify certain elements of the legal environment. The entry into force of the concerned EC Regulation in itself did not cause the disappearance of bilateral agreements. Certain cases have been transferred to national competence, which means that apart from possible existing bilateral agreements, national regulations are to be taken into account.



As regards Hungarian legislation, attention should be paid to [Act XLI of 2012 on Passenger Transport Services](#). The regulation defines the types of passenger transport services. Under this law, cross-border passenger transport services (regular services between border cities and conurbations) are considered urban/local and suburban services, and therefore are not permitted to perform cabotage operations. According to the explanatory notes of the law, suburban passenger services are passenger services carried out in the capital or municipality and in their catchment area of 70 km.

The following figure shows that this regulation does not enable the performance of cross-border passenger transport services as cabotage operations in Hungarian urban areas.

Most provisions of international agreements signed by Hungary do not permit the performance of mutual cabotage operations, but some provide the opportunity for competent authorities to issue a special permit. For example, according to *Government decree 89/1993 (VI. 8.) on the announcement of the Agreement on the international Hungarian-Croatian road passenger transport and freight transport*, cabotage operations shall not be performed unless the competent authority of the other Contracting Party issues a special cabotage permit.

### 2.1.2.2 Best Practices in Europe

Several good examples can be found for cross-border public transportation solutions all across Europe. The best practices we have collected may provide usable solutions for the better organisation of public transportation along Hungarian borders.

EgroNet, for example, is an extensive German-Czech public transport network that pools multiple service providers and modes of transportation in the border area of the two countries. All public transport services within the network, including 468 bus lanes, 37 railway lines, 12 tram lines, and 2 lifts (either domestic, local, regional, or cross-border) are available with one single ticket.

Similar services are available in the surroundings of Lille (France and Belgium), in the twin-towns of Gorizia (IT) and Nova Gorica (SI), as well as for example along the German-Polish border (Frankfurt (Oder) and Słubice).

### 2.1.2.3 Recommendations

Before making specific recommendations, we consider it important to discuss the pitfalls of cabotage, currently the main obstacle to cross-border regional passenger transport services, and to which particular attention shall be paid when making any amendments to the regulation. They include the increase in the number of potential competitors, a sharp decline in revenues, and price fluctuations caused by currency mismatch and inflation, having a possible impact on traffic volume and the costs and revenues of operation.

In the light of the identified obstacle, the legal environment, and social-economic demands, legislators shall take two aspects into account:

- the importance of promoting the integration of public transport services in cross-border locality and employment pools with urban and suburban regular services, and

- new opportunities shall not affect the viability of comparable transport services or exceed local requirements.

Considering the current regulatory environment, travel requirements, and international best practices, we suggest the following legal and policy proposals.

### **Recommendation for the European Union**

We recommend making amendments to *Regulation (EC) No 1073/2009 on common rules for access to the international market for coach and bus services*, with a view to the profitability of cross-border passenger transport services, which could be increased by lifting the ban on cabotage operations. This amendment to community law would be the most efficient measure taken to enhance legal accessibility. We recommend the following amendments to Article 15(c):

Existing regulation	Proposed regulation
<p>Article 15 Authorised cabotage operations</p> <p>Cabotage operations shall be authorised for the following services:</p> <p>[...]</p> <p>c) regular services, performed by a carrier not resident in the host Member State in the course of a regular international service in accordance with this Regulation, with the exception of transport services meeting the needs of an urban centre or conurbation, or transport needs between it and the surrounding areas. Cabotage operations shall not be performed independently of such international service.</p>	<p>Article 15 Authorised cabotage operations</p> <p>Cabotage operations shall be authorised for the following services:</p> <p>[...]</p> <p>Article 15(c) regular services, performed by a carrier not resident in the host Member State in the course of a regular international service in accordance with this Regulation, <del>with the exception of</del> <b>including</b> transport services meeting the needs of an urban centre or conurbation, or transport needs between it and the surrounding areas. <del>Cabotage operations shall not be performed independently of such international service.</del></p>



### Legal recommendation

Besides EU regulations, amendments should be also made to Hungarian *Act XLI of 2012 on Passenger Transport Services* to further improve passenger transport services in cross-border catchment areas.

Existing regulation	Proposed regulation
2(6) suburban passenger service: passenger service carried out in the capital or municipality and in their influencing area of 70 km.	2(6) suburban passenger service: passenger service carried out in the capital or municipality and in their influencing area of 70 km, <b>including regular international services with points of departure and arrival located in an urban area within 50 km of the border in the territory of Hungary and a neighbouring country.</b>
2(8) local passenger service: passenger service carried out at local tariffs within the administrative boundaries of the locality, including the carriage of passengers with road vehicles to railway stations and ferry ports outside the administrative boundaries of the locality, without serving intermediate stopping points;	2(8) local passenger service: passenger service carried out at local <b>or specific</b> tariffs within the administrative boundaries of the locality, including the carriage of passengers with road vehicles to railway stations and ferry ports outside the administrative boundaries of the locality, without serving intermediate stopping points, <b>and formerly national local services operated under public service contracts extended to cover a border area</b>

If the further amendments are not translatable, we recommend the insertion of a separate explanatory note with the definition of "cross-border passenger transport services":

Existing regulation	Proposed regulation
–	<b>Cross-border passenger transport services: Passenger transport service carried out within 50 km of the border between Hungary and a neighbouring country, either local, suburban, or international, including cabotage operations.</b>

Furthermore, we recommend to amend bilateral agreements on international road passenger transport and their declaring decrees with functional centres of urban functional zones within 50 km of the border as exceptions to the ban on cabotage.

A sample for existing regulation	A sample for proposed regulation
Cabotage operations shall not be performed unless the competent authority of the other Contracting Party issues a special cabotage permit.	Cabotage operations shall not be performed unless <b>for the international carriage of passengers, or</b> the competent authority of the other Contracting Party issues a special cabotage permit.

Mutual bilateral agreements on international road passenger transport and their declaring decrees should provide for the specific rules on the establishment and system of tariffs, revenues from ticket and season pass sales, and the distribution of additional costs. Furthermore, they should also be amended with regulations on the procedure of authorising border services. The European regulation in force gives the opportunity for partner authorities to perform demanding administrative tasks, lifting the burden from enterprises.

### ***Policy recommendation***

First of all, regular cross-border services should be provided in urban zones, which are also available for domestic journeys.

The facilitation and permit of cabotage operations would be especially important in national border areas of poor service facilities, where the introduction or extension of such transport services would provide inhabitants with better and a wider range of services.

### 2.1.3 Increased Mobility through Access to Student Discounts

The system, issue, regulation and acceptance of student certificates show a mixed picture across Europe. Beneficiaries, the forms of discounts and certificates, and issuing organisations differ widely. So far, European countries do not have a unified horizontal student card system, and student discounts fall under national competences, too.

**Although student cards entitle students to reduced transport fares in Hungary and neighbouring countries, accepted certifications and opportunities show wide differences from country to country.** For example, among the largest public transport companies in Hungary, BKV (Budapest Transport Privately Held Corporation) does, but MÁV (railway) and Volán (coaches) do not accept the International Student Identity Card (ISIC). The form of discounts and beneficiaries show a varied pattern in Hungary and other European countries, which limits the access to cross-border services and holds back traffic and cross-border student migration.

#### 2.1.3.1 Legal framework

In Hungary, the *Government decree 362/2011. (XII. 30.) on certificates used in education* provides for the regulation of student cards. Article 13(1) sets the eligibility criteria, Article 14 determines the types of certificates, and Article 15 specifies the rights and main discount categories of cardholders. Concerning the area, there are three further regulations of particular importance, setting the scope of benefits granted by the state of Hungary.

- *Government Decree 85/2007. (IV. 25.) on travel reductions in public passenger transport;*
- *Government Decree 194/2000. (XI. 24.) on benefits at museum admission;*
- *Government Decree 6/2001. (I. 17.) on discounts for library users.*

#### 2.1.3.2 Best practices in Europe

There have been European initiatives to create a unified cross-border system by issuing the so-called international student cards. These include the International Student Identity Card (ISIC) and European Youth Card Association (EYCA), joined by multiple issuing organisations in Europe, whose student cards bear the symbol of the association. Holders of the national student card are therefore entitled to benefits granted by the state as well as by the association. These benefits apply to a certain range of services provided all across Europe, but it is important to underline that these international student cards do not entitle students to certain state-granted benefits.

### 2.1.3.3 Recommendations

Considering the current regulatory environment and the fragmented system of student certificates, we suggest the following legal and policy proposals.

#### *Recommendation for the European Union*

We recommend the development of a student certificate system at EU level. As part of the community initiative "Investing in Europe's youth", also approved by the Committee of the Regions, the European Parliament has come up with a proposal on the issue of a student card. According to the opinion of the Committee on the initiative, a new card would not replace existing national cards, but it could be integrated in their system.

The priority of the European Union should be the wide acceptance and unification of student cards in circulation, based primarily on the International Student Identity Card and the card of the European Youth Card Association.

#### *Legal recommendation*

In the absence of an EU student discount network, certificates and discounts should be harmonised through bilateral or multilateral agreements between neighbouring countries. A mutual legislation should be drafted on the nationals of neighbouring countries who are entitled to student cards, specifying the mutual aspects of accepting the eligibility certificate.

Furthermore, regardless of whether barriers to student mobility are lifted through European Union directives or bilateral or multilateral agreements, Hungarian legislation may also be subject to amendments.

## 2.2 Cross-border labour mobility

In the workshops held within the framework of the project, several obstacles related to the field of employment have been mentioned. We consider the following the most important ones concerning cross-border labour mobility:

- **difficulties with the access to cross-border labour market information;**
- **problems with the equivalence of qualifications;**
- **differences between the provisions on employment by country (e.g. simplified employment).**

The major obstacles to cross-border labour mobility are the lack of information and knowledge related to employment abroad, the legal environment thereof (including the employees' rights and obligations), and the misalignment of information services. It is no surprise that the European lawmakers and the stakeholders of cross-border cooperation in several border areas have recognised the economic potentials in providing efficient and comprehensive information. The EU also supports the resolution of these problems through the EURES initiative programme.

At the same time, it is important to highlight that cross-border labour mobility cannot be enhanced only through the elimination of information obstacles. Even if knowledge on the employment situation and legislative background of the given country is ensured for the employee coming from the other side of the border, and the exchange of information is unhampered between the concerned authorities, employment is still not automatically guaranteed. It results from the differences between the training systems of the particular countries. Different labour market needs lead to differences between the content and system of trainings. Although one of the main pillars of the European Union is the principle of free movement of workers, it is still a major obstacle that the recognition of qualifications is by no means automatic, as every training system falls within the respective Member State competence.

The definition of the content and the system of education and vocational training will remain within Member State competence. Community legislation allows Member States to define the criteria of vocational trainings. Therefore, the recipient country may define the official recognition of qualifications (training and professional experience) as a condition for employment. There are only a few professions that are automatically accepted by the Member States in line with the [2005/36/EC Directive](#).

The recognition of certificates, degrees, and traineeships is still strictly regulated and subject to charges. Qualifications acquired abroad have to be accredited according to the paragraph (64) of the [Law C \(2001\) on the recognition of foreign certificates and diplomas](#), which is often accompanied by considerable payment requirements.

Once the employee has the proper information on the employment situation and managed to obtain recognition of qualifications from the authorities successfully,

diverse social security systems related to employment still remain a major obstacle: the access to employment benefits cannot always be enforced in accordance with the provisions of the country of origin. The legislative packages for the community-level “upgraded coordination” of social security systems coordinate different national social security systems. Social benefits and contributions regarding specific forms of employment are still determined by the social security system of the country of employment. Workshops have revealed that for Hungarian commuters to Austria is a problem that simplified (small-scale) employment in Hungary provides more social benefits for them than the amount they receive in Austria.

The main objective of our proposals is to support cross-border employment and contribute to tackling labour market-related problems (e.g. unemployment, labour shortage). Information should be provided in a more efficient way, and there is also a need for facilitating the mutual recognition of qualifications, and the settlement of employment relationships. We suggest to amend bilateral agreements with the list of equivalent certificates, and to establish border committees for vocational training, to support the alignment of degree recognition mechanisms.

### 2.2.1 Legal framework

According to Article 166 of the *Treaty on the Functioning of the European Union* (TFEU), the content and organisation of vocational training belong within Member State competence. There is no EU norm for the alignment of the various vocational training systems. The systems of national qualifications were promoted by the implementation of the *Recommendation of the European Parliament and of the Council of 23 April 2008 on the establishment of the European Qualifications Framework for lifelong learning*. In Hungary, it is governed by *Act CLXXXVII/2011 on Vocational Training*.

The recognition mechanism of professional qualifications is subject to a more direct regulation at the community level as well. In the EU, it is governed by *Directive 2013/55/EU of the European Parliament and of the Council*, which also amended *Directive 2005/36/EC on the recognition of professional qualifications*, and the *Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System*. An important element of the directive is the definition of the so-called regulated professions. Regulated professions may be only pursued in possession of the required certificate, membership of a professional organisation, and after the examination procedure. If an EU citizen seeks employment in another Member State, and their profession is a regulated profession, the host country may impose the official recognition of the professional qualifications (training and professional experience) as an employment condition. If their profession is not a regulated

profession in the host country, they may pursue it with the same conditions as the citizens of the given country.

In this regard, Hungary had signed several bilateral international agreements before the EU accession on the mutual recognition of certificates and degrees. An outstanding example is the bilateral agreement with the Republic of Austria, whose annex contains the list of equivalent exam certificates.

Other acts of relevance:

- *Act XCIX of 2011 on the Convention on the Recognition of Qualifications concerning Higher Education in the European Region - Lisbon, 11 April 1997;*
- *Act C of 2001 on the recognition of foreign certificates and degrees;*
- *Government Decree No. 137/2008 (V. 16.) on the certified examination of foreign language attainment and on the nostrification in the Republic of Hungary of language certificates of foreign language attainment issued abroad;*
- *Act CXC of 2011 on National Public Education;*
- *Act CCIV of 2011 on National Higher Education.*

Provisions on the rights and obligations of the employees are closely related to the issue of cross-border employment as well. According to the research, the biggest problems are caused by employment relationships whose regulations differ from state to state, like in the case of simplified employment (as revealed during stakeholder workshops), governed by *Act LXXV of 2010 on Simplified Employment* in Hungary. According to Article 10(1) of the act, persons taking up seasonal and casual employment are not considered as being insured as laid down by *Act LXXX of 1997 on the Eligibility for Social Security Benefits and Private Pensions and the Funding for These Services*, but do obtain entitlement for pension benefits, accident insurance, and employment benefits. Austrian legislation, on the other hand, shows some differences. The closest equivalent of the Hungarian simplified employment is small-scale employment (*Geringfügige Beschäftigung*) in Austria. This kind of employment relationship is governed by *Bundesgesetz vom 9. September 1955 über die Allgemeine Sozialversicherung* in the Austrian legislation. In the case of small-scale employment, the employer is only liable to pay for accident insurance: pension and health insurance are paid by the employee on a voluntary basis. Voluntary contributions for unemployment insurance, however, are not enabled. Accordingly, a Hungarian employee, following their Austrian employment, is not “automatically” entitled to unemployment benefit, sickness, or health insurance neither in Hungary nor in Austria<sup>6</sup>. The *Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems* and the *Regulation (EC) No*

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<sup>6</sup> The number of Hungarian cross-border commuters in Austria has been increasing, in 2016 exceeded 60 000.

*987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems* provides a relatively detailed guidance on the regulations of social security issues, but these regulations do not replace national legislation. They only coordinate national social security systems, and do not regulate the benefit systems of different categories of employment.

### 2.2.2 Best practices in Europe

As already mentioned, the lack of information is a fundamental barrier to cross-border labour markets and employment. One good example for cooperation providing information on the cross-border labour market is the one between Germany, Belgium, and the Netherlands. Their initiative was based on the fact that necessary information on employment was unavailable. As a solution, they created a digital information portal and a roadmap for those who seek employment in one of the other countries. The Dutch information portal ('[www.grensinfo.nl](http://www.grensinfo.nl)') has been developed to provide information on the legal framework and the tax, healthcare, and social security systems of the three countries.

Meuse-Rhine Euregio operates the "Institute for Transnational and Euregional Cross-border Cooperation and Mobility" in association with the province of Limburg and the city of Maastricht. The interdisciplinary institute has developed an information database to facilitate the everyday life of those living in the border region. The information service covers the issues of taxation, pension, social security, and the recognition of certificates.

Another best practice is Infobest, the employment-related cross-border information and counselling service network of Northwestern Switzerland, and the regions of Alsace (France) and Baden-Württemberg (Germany). Established in the early 1990s, Infobest provides a wide range of thematic and useful information (e.g. school education and vocational training, marriage and family, employment, unemployment, family support, taxation etc.) for persons in the region of Upper Rhine who wish to work or live in another country, as well as for enterprises, civil organisations, and public administration. Their webpage gives information about eventual differences between employment regulations with legal references, specific employment-related cases, and definitions. Besides the webpage, which is available in French and German, there are four Infobest offices in the border region.

Problems with the equivalence of qualifications are addressed by initiatives that focus on the alignment of vocational training systems. A European best practice is the initiative between the German state Schleswig-Holstein and the region of Sønderjylland in Denmark. Their measures address the harmonisation of vocational



training systems. As part of the cooperation, they launched a consultation process in which representatives of both concerned ministries were involved so that they develop a legal framework related to education and vocational training. The negotiations were concluded by a joint declaration in 2013, aimed at promoting the transparency and comparability of education and training systems, and reducing administrative and bureaucratic obstacles and difficulties. Their "*Competence to go*" project was created for the recognition of degrees and qualifications in medical care and other areas.

Similarly to this agreement, in December 2008 Germany concluded a declaration with the Netherlands as well, for the mutual recognition of education qualifications. The agreement includes the transition between primary and secondary education systems through a jointly created list of equivalences. The parties of the cooperation therefore mutually recognise attained qualifications and rights. It needs to be added, that these partners regularly exchange information on the changes to their education systems, and continuously consult on mutual recognition and the actualisation of the list of equivalences.

### 2.2.3 Recommendations

Lifting the barriers to cross-border labour mobility is essential to address the problems in this regard. In the absence of solutions offered by the EU, equivalence issues may only be addressed in the foreseeable future with amendments to bilateral agreements and with related interactive professional initiatives.

#### *Legal recommendation*

In addition to policy proposals (see below), we suggest that bilateral agreements in the inventory be amended with a list of equivalences, as in the case of the Austro–Hungarian convention, to improve employment possibilities. These amendments are supposed to increase the efficiency of consultation and implementation mechanisms that serve the alignment and determination of professional qualifications, as well as to reflect any changes to them.

At the moment, there are no such list of equivalences in these agreements, except for the one concluded with the Republic of Austria. Therefore, we propose the amendment of these agreements with the following article and annex:

#### **Article (...)**

***(1) The examination certificates of the vocational training shall be recognized without any special procedure by the Contracting Parties if***

***a) equivalence has been determined by each Party, and***

*b) the examination certificates have been added to the Annex of the present Agreement.*

*(2) The Annex of the present Agreement shall be modified and amended by exchange of notes.*

*(3) The Contracting Parties*

*a) exchange all the information and documents needed for the assessment of equivalence,*

*b) shall communicate any changes to the examination requirements to each other as promptly as possible.*

*(4) The assessment of equivalence does not apply to examination certificates acquired in public employment relationship or in other training relationships that have the sole purpose of occupying the post of a civil servant subsequently.*

### **Annex**

*The list of examination certificates recognized as equivalent*

*(...)*

### **Policy recommendation**

As regards information services, it would be important to develop a portal to provide information on cross-border employment with similar objectives, structure, and efficiency to the portals introduced above. This is a top priority proposal as rudimentary, false, or incomplete information renders cross-border employment substantially difficult or in certain cases even impossible, or causes further problems in the course of employment. The portal requires a specific data and information collection mechanism, whose aspects (type of data, tasks of data providers, usability of information etc.) stakeholders should decide on in advance. The website would provide comprehensive information on various fields of employment, including the activity and contact information of employment services, the supply and demand on the labour market, taxation, rights and obligations related to employment relationships, the vocational training system and legislation of different states, and the conditions and procedure of the recognition of certificates and degrees.

It is also worth taking into account similar existing EURES initiatives and their experiences.

Our next recommendation is the development of physical infrastructure. We also propose, with regard to the current labour market situation, the creation of a cross-

border network of information offices between neighbouring countries, initially with a pilot office point that offers training opportunities as well.

As regards equivalence issues, Hungary should initiate official cooperation with neighbouring countries to map labour shortage and professions that are concerned in cross-border labour mobility in the specific border regions. Decisions on the structure of professions, which are published every month and show labour shortage broken down by country, might provide guidance for labour shortage. In the case of the professions identified, it is important to set the scope of professions that require the recognition of professional qualifications. In such cases, the possibility of automatic recognition should be examined. The lists in the annexes of bilateral agreements should be extended, and in the absence of such amendments, a simplified recognition procedure with reduced fares should be applied for persons seeking employment on the other side of the border.

We also propose training programmes in the training centres of the districts along the border, which would enable students to do an internship programme on both sides of the border, without having to have their qualifications recognised. Persons with qualifications attained previously should also be given support, if the recognition procedure requires any supplementary vocational training.

Last but not least, there is a need for tackling problems related to employment relationships that every Member State has different regulations for, with special regard to the issue of simplified employment. According to our policy proposal on simplified employment, competent actors (e.g. employment centres, social security institutions, health insurance companies, and pension and tax authorities) should hold consultations and seek solutions for the harmonisation and standardisation of regulations.

## 2.3 Healthcare

One of the most classic examples of the European Union's territorial cooperation policies, is the cross-border division of healthcare services. The attention that is devoted to healthcare is understandable, since, apart from the employment and mobility, this field concerns the residents of the border territories the most; and the crossing of borders in this field provides an evidence to the functioning of the EU. In case of a serious accident, a heart attack or a complicated delivery, the nation state borders should not hinder any help, since there is nothing more important than human life.

The related EU policy acquis endeavours to deal with this issue by taking the interests of the citizens into account. Two topics are in the focus concerning the problem: the cross-border patient flow and the free moving of ambulance cars.

### 2.3.1 Patient flow

In the broad sense, the related EU provisions – based on the principle of free movement of persons– insure the patients in the whole EU to receive medical treatment from the health care system of the certain Member State. In health care this means, theoretically, that if the citizen owns health insurance in an EU country, then he or she has the right to use the health care services in another EU country with the same conditions. This theoretical opportunity usually faces problems due to great differences between the two EU countries in the service capacity of the certain country, the traffic laws concerning patient transport or even in the tariffs of the treatment.

The following difficulties were identified in this topic on the stakeholder workshops:

- **cross-border patient flow is not possible, since the health insurance systems are different in the countries;**
- **the cross-border integration of healthcare IT systems is not possible, but this is mostly because of data protection.**

#### 2.3.1.1 Legal framework

The cross-border healthcare service is established in many EU treaties, as it is in the Article 168 (2) of *Treaty on the Functioning of the European Union* which says “[The Union] shall in particular encourage cooperation between the Member States to improve the complementarity of their health services in cross-border areas.” Under this provision, the Commission and the Member States can propose initiatives which support the coordination.<sup>7</sup>

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<sup>7</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12016E168&from=HU>

*The European Parliament and Council Regulation (EC) No 883/2004 on the coordination of social security systems* determines the rules coordinating the national social systems of the Member States; and the measures and procedures needed for the implementation. According to the Regulation's preamble (1) *"The rules for coordination of national social security systems fall within the framework of free movement of persons and should contribute towards improving their standard of living and conditions of employment."*

The Regulation determines the procedural steps in case when the residence of the subject person and the territory of the competent State are different. Moving abroad for work is a typical case of the regulation.

The Regulation contains, in addition to double insurance, the prevention of overlapping of benefits. This principle intends to prevent anyone receiving undue benefits due to the right of free movement. Although the employee pays statutory social security system contribution in two or more States at same insurance period, it does not give the right to the employee to receive the same type of healthcare multiply. According to the *Regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) 883/2004 on the coordination of social security systems*, a fruitful and close cooperation among the social security institutions is a key element for the persons who fall within the scope of *Regulation (EC) No 883/2004* to be able to make use of their rights in the shortest period of time and under optimal conditions.

*Directive 2011/24/EU of the European Parliament and of the Council is on the application of patients' rights in cross-border healthcare*. According to the preamble to Directive entry (31), every patient who requests a healthcare in an other Member State – *when the treatment in question is among the benefits provided for by the legislation in the Member State where the patient resides and when the patient cannot be given such treatment within a time limit that is medically justifiable, taking account of his current state of health and the probable course of the condition* – has to receive permission under the conditions of the regulations.

According to the preamble to Directive entry (35), *the sole objective of the provisions regarding prior authorisation and reimbursement of healthcare provided in another Member State should be to enable freedom to provide healthcare for patients and to remove unjustified obstacles to that fundamental freedom within the patient's Member State of affiliation*. The Directive underlines as well, that the differences among the national healthcare systems and the competence of the Member States in healthcare services and in organising and implementing medical treatment must be respected.

The expenses of cross-border healthcare are to be financed by the Member State, where the patient is insured. The costs should be reimbursed or payed directly up to

the level of costs that would have been assumed for receiving and providing the treatment in the Member State of affiliation, without exceeding the actual costs.

An expert underlined during the interview that the approval of the Regulation happened, since during the legal disputes about the employment of the EEC laws (eg. *Regulation (EEC) No 1408/71*), the Court of Justice of the European Union had discussed the issue of healthcare services similarly to the other services, and had made such decisions which protect the rights of the patients in the judgements. The Regulation itself then can be perceived as a response of the national governments; they made an effort to set limits to the judicial practice that supports cross-border patient flow.

The main reason for these limits was to guarantee the balance between health insurance systems, since the migration of patients leads to differences between treatment costs and incomes. Besides, the predictability of the volume of patient flow can be problematic. If everyone chose an EU healthcare institute in favour as the venue for the necessary healthcare, the planning of treatments would become impossible.

Thus it is not by chance that the majority of the Member States has initiated restrictive provisions after the adaptation of the Regulation. The 2015 review report provides an overview of this due to the Regulation<sup>8</sup>.

Though the Article 8(2)(a) of the Regulation provides opportunity for the initiation of the prior authorisation, this should also mean a proportionate burden for the applicant and cannot result in arbitrary discrimination or unjustified obstacles. Twenty one of the Member States have introduced authorisation process in case of planned healthcare, notwithstanding Austria, the Czech Republic, Estonia, Finland, the Netherlands, Lithuania and Sweden. (see the *Report*, without page num.) This means that the patient must ask for prior authorisation by the competent institution to receive the treatment abroad. The issuing of authorisation can be refused by justified reasons. It cannot be refused, when the treatment is not available in the sending country, or it is accessible, but the patient should wait to receive it for disproportionately long.

In case of a planned treatment, the competent institution gives authorisation with an S2 form, and the expenses will be reimbursed by the domestic health insurance institution. This means in most of the cases that the patient does not have to pay for the treatment, because the service provider and the health insurance company directly handle that; there is a developed platform functioning among the Member States. The only exceptions are those countries whose insurance company reimburses the expenses to the patient only subsequently. In this case the paying works in the same way (subsequently).

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<sup>8</sup> Report from the Commission to The European Parliament and the Council. Commission report on the operation of Directive 2011/24/EU on the application of patients' rights in cross-border healthcare. [http://ec.europa.eu/health/cross\\_border\\_care/policy/index\\_en.htm](http://ec.europa.eu/health/cross_border_care/policy/index_en.htm)

Employees of another Member State use the healthcare services without authorisation in the country where they are employed; their entitlement is certified by S1 and DA1 forms; after retirement, the S3 form; and in case of unemployment the U1 or U2 forms. The fact that cross-border patient mobility cannot be considered as automatism, is certified by the report mentioned above: during the first year of the initiation of the Regulation, altogether 560 applications for authorisation were submitted in 17 Member States, from which 360 were approved. However, the number of the reimbursements (which apart from the Regulation, also include the interventions of the Directive) is much bigger than this. In 2014, 39.826 reimbursement applications were submitted to the health insurance companies of the Member States, among these more than 31.000 were submitted in Denmark, that can be explained by the intensity of Swedish-Danish cooperation. Meanwhile, six Member States did not receive any applications (Hungary is not included). According to the report, 85% of the applications were payed. This means that the EU citizens make less use of the framework provided by the Regulation, probably because of the complicated procedures. However, the next report will come in 2018, which is a longer timespan, thus it can provide opportunity to draw more serious conclusions.

In the view of the above (and similarly to other Member States), **Hungary** has initiated the prior authorisation process on the planned healthcare, otherwise financing and following the reimbursements would have meant a significant burden to the public finances. The rules of the prior authorisation process is included in the *Government Decree 340/2013. (IX. 25.) on the detailed rules of the healthcare services abroad.*

Therefore the patient has to initiate authorisation process towards the Nemzetközi Kapcsolatok és Jogviszony Nyilvántartási Főosztály (Department of International and Legal Registration) of National Health Insurance Fund of Hungary ((Hungarian acronym: NEAK). The Hungarian practice aims to avoid medical treatment abroad, and intends to provide, rather in addition to performance volume barrier and territorial healthcare obligation, treatment in other Hungarian health institutions. This explains that there are more health services which require authorisation in Hungary than in other EU countries. This time the entitlement inquiry ends with a refusal (see the quoted Government Decree 4.§ (1)), as it happens in such cases where the costs of medical treatment abroad exceeds the Hungarian costs at least with 30% (Ibid. 5.§). (It is possible to avail higher price services, but this time NEAK reimburses the treatment cost only up to the Hungarian price level.)

The Hungarian patients are mostly directed to abroad institutions, when the treatment is not available in Hungary. In this case the authorisation will be given via leniency procedure (after handing in the acceptance statement of the institution) and (in case of a public service institution) the whole treatment cost will be reimbursed in hindsight.

The experiences so far show moderate interests. Since the Regulation has entered into force, only 6 applications were submitted which were mostly about the reimbursement of the fee of medicines bought abroad. According to the experts, the main reason is the lack of language knowledge and the pre-financing force (NEAK reimburses the treatment costs only in hindsight). Besides, the patients are restrained by the fact that only the amount of the Hungarian treatment fee is credited for them.

Apart from this, many persons living by the Austrian border use the services of the other side of the border, usually with S1 form, sometimes even when it is an S2 service. NEAK cannot control this practice, thus it has to reimburse the price of the treatment presented on the receipt<sup>9</sup>. At the same time, these misuses harm the issue of cross-border patient mobility.

### ***Special field of patient flow – processing patients' data***

Even the early EU regulations highly regulated the health-related data protection. One of these laws was *European Parliament and Council Directive 95/46/EC of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data*.

According to paragraph 33 of the Preamble of the Regulation: data which are capable by their nature of infringing fundamental freedoms or privacy should not be processed unless the data owner gives his/her explicit consent.

Currently effective so called “**General Data Protection Regulation**”, that is *Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC*, that provides a very tight margin of manoeuvre for the use of the data of the patient, and always establishes appropriate legal ground for the law applicant. EU legislations also put special emphasis on data protection questions, given the potential misuses, and also aim at initiating innovative solutions of mobile health.

The differences can only be assured by such processes, which deals with demands for the services and benefits of health insurance system, that are high quality and cost-effective, or they can be assured with the aim of public archivation, and scientific and historic research and statistics. There is a separate category for infectious diseases which are unstoppable by borders, and cannot be prevented and treated by withholding certain data. Communication becomes also difficult since data protection

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<sup>9</sup> In Romania, the validity period of cards must have been limited because of similar reasons, but an uncomprehensibly bigger volume: today an S2 form is only given for half a year to narrow the gap, through which the resources of the health insurance fund – which does not really stand on firm ground, flow to Spain and Italy.



rules are different in each and every EU country. This makes impossible to carry out the telemedicine projects on some occasions.

**In Hungary** we have to mention the *Law XLVII of 1997 on the secrecy and protection of health and related data*. The cited law determines the conditions and goals of the application of special personal health data. It underlines that personal data can be processed for legal purposes only.

The 19/A. and 19/B. paragraphs of the law rule the cross-border health data processing. According to these paragraphs, the designated national contact authority which is responsible for enforcing the right of access to health care is allowed to store and process the relevant person's name, sex, date of birth, domicile, place of residence, social security number and those health data being necessary for the enforcement of the cross-border patient rights. The designated national contact authority has the right to transmit all these data to the relevant health administration or social security organ – with a view to facilitating the use of health care services. The latter organs can store the particular person's above mentioned data until the organisation of the treatments. In addition, with statistical purposes and without making possible to identify the patient's identity, information can be gathered on

- the absolute number of foreign patients by their citizenship
- the treatments used by foreign patients as well as
- the number of cases of professions within the meaning of the health service provider's permission and the interventions.

Besides, the frames of data gathering of foreign treatments are enshrined by the abovementioned *Government decree 340/2013.(IX.25.)*:

*17. § The NHIF<sup>10</sup> takes care of the gathering of the following data related to treatments abroad:*

- a) the number of submitted applications by treatments (OENO codes) and in a share by the paragraphs 5, 7 and 9,
- b) the post code of the domicile and the date of birth of the treated person as well as the name and address of the foreign hosting institution,
- c) the number of the issued permissions in a share following the (5) and (6) sub-paragraphs of the paragraph 5, the (1) sub-paragraph of the paragraph 7 and the (7) sub-paragraph of the paragraph 9,
- d) the number and justifications of the applications rejected in a share following the (5) and (6) sub-paragraphs of the paragraph 5, the (1) sub-

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<sup>10</sup> National Health Insurance Fund of Hungary

paragraph of the paragraph 7 and the (7) sub-paragraph of the paragraph 9,

e) the number and justifications of the positive and negative decisions of the MRC<sup>11</sup> on appeals in a share of the (3), (5) and (6) sub-paragraphs of the paragraph 5 and the (1) sub-paragraph of the paragraph 7,

f) the number of reimbursements by the (3) sub-paragraph of the paragraph 7

g) the number and subjects of the applications submitted by the (4) sub-paragraph of the paragraph 8 and the number of reimbursements by the paragraph 8 and

h) the number of reimbursements by the (7) and (8) sub-paragraphs of the paragraph 9.

Obviously, the information on the patient's personality cannot be directly derived from the above data.

### 2.3.1.2 Best practices in Europe

Numerous good practices can be mentioned as examples for the free cross-border mobility of the patients. Some of them facilitate the patients' virtual mobility through telemedicine services. This type of initiatives is already known also along the Hungarian borders.

Another group of good practices consists of those by which the people living in one side of the border can use the treatments of a health service institution on the other side. A good example for this is the case of the twin-towns of Valga (Estonia) and Valka (Latvia) where, based on a bilateral agreement, the lack of the health institution in Latvia is complemented by the Estonian hospital. Similar agreement facilitates the enforcement of the access to Norwegian health services of the Lapps living on the tundra of Northern Finland; or the Danish cancer patients' radiotherapy treatments in the neighbouring German Flensburg's hospital.

Third level of cooperation is represented by the development of integrated territorial treatment zones, the most adequate examples of which are 5 so-called ZOASTs (Zone Organisée d'Accès aux Soins Transfrontalier, in English: Organised Zones of Access to Cross-Border Healthcare)<sup>12</sup> along the French-Belgian border. The cooperation started

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<sup>11</sup> Medical Research Council

<sup>12</sup> <http://ofbs.dims.fr/les-zoasts.html>

in 2002 when in the clinic of Revin (France) the maternity ward has been closed. As a consequence, the pregnant women had to travel 60 km to the hospital of Charleville-Mézières. As a result of the cooperation, the French women have the opportunity to give birth to their baby in the Belgian hospital of Dinant. Later on, the scope of obstetric treatments have gradually been expanded to the pre- and postnatal services and then to further out- and inpatient treatments.

The contracting parties (the French Minister of Health and Solidarity and the Social and Public Health Minister of the Kingdom of Belgium) agreed on the first ZOAST as an institutionalised form of cross-border health cooperation in 2005<sup>13</sup> and the model has widely been approved in 2011 – already in 5 regions. According to the framework contract, the territorial agreements concluded by the regional stakeholders define the principles by which the high-quality services and in some cases the continuity of cares (emergency care, delivery of medicines) become accessible for the given region's population on both sides of the border. The treatment does not necessitate preliminary permission, it is not hindered by administrative or financial burdens.

Further innovation of the system is the exchange of doctors: since the Belgian side is populated by not walloons only, the Flemish doctors provide office hours in the French hospitals, as well.

The ZOASTs can be interpreted as models of territorial application of the European Health Insurance Card (EHIC): the people living in the particular region can use the services on the other side of the border with their health and identity cards and they are not obliged to pay for them. Territoriality is a very important component of the ZOASTs: the service contracts identify the list of the municipalities from where the health institutions are allowed to receive patients.

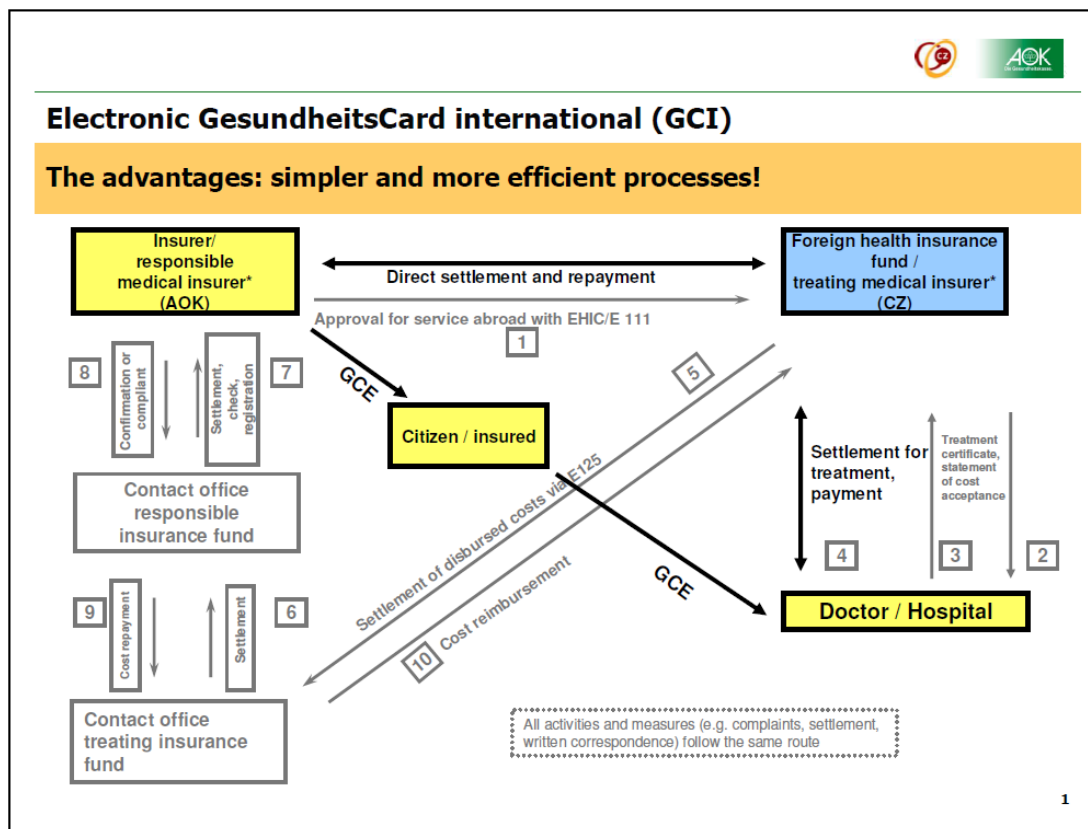
The definition of the zones usually was preceded by the elaboration of a feasibility study unfolding the complementarities of the existing services and the financial implications of the cooperation.

The ZOASTs can be used as examples also for how to optimise the exploitation and share of human and financial resources, how to arrange the cross-border supply and how to mutually share the knowledge and best practices. In accordance with the principle of economies of scale, within the zones the valuable diagnostic instruments are not procured by each hospital: the institutions are specialised on different fields of treatments in a complementary way, following a kind of principle of territorial balance mitigating the charges of the given country's health insurance budget.

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<sup>13</sup> Accord cadre entre le Gouvernement de la République française et le Gouvernement de Royaume de Belgique sur la coopération sanitaire transfrontalière (2005); Projet d'arrangement administratif général relatif aux modalités d'application de l'accord-cadre entre le Gouvernement de la République française et la Gouvernement de Royaume de Belgique relatif à la coopération sanitaire transfrontalière (2005)

The health service institutions operating in the triborder area of Germany, Belgium and the Netherlands have headed even farther in the development of cross-border integrated service provision. Here, the first agreement was signed in 1995 between a Dutch hospital and a German insurance company. In the following two decades, they have developed an extended service system exceeding even the European frames. In this region, the E112 cards are replaced by regional health insurance cards: the IZOM (*Integration Zorg op Maat*) cards in the relation of Germany and the Netherlands; the GCI (*Gesundheits Card International*) cards in the relation of Germany and Belgium. This solution has remarkably simplified the administration of reimbursements. The differences between the EU and euroregional systems are represented on the following figure:



Source: *Evaluation of Border Regions in the European Union (EUREGIO)*, 88<sup>14</sup>.

Compared to the EU model, this solution has a further advantage: the treatments are available for the clients of both state and private insurance companies. At the same time it means serious self-restrictions for the service providers since within this framework they had to renounce their business profit.

Partly due to this phenomenon, in the first 5 years more than 25 000 patients have joined the GCI card system from which 5000 clients used the opportunities available

<sup>14</sup> Evaluation of Border Regions in the European Union (EUREGIO). Project Final Report. 2007.

on the other side of the border. In parallel, and similarly to the French-Belgian model, the waiting lists have also been eliminated. All these results were based on a careful planning procedure.

The farthest way in integration has been achieved by the Cerdanya Hospital opened in 2013 in the Pyrenees. The reason of the creation of the hospital operating within the framework of a European Grouping of Territorial Cooperation (EGTC) was that in the isolated mountainous region's population (both on French and Spanish sides) could not access to several treatments but with a journey of 100 km. The solution was given by a joint hospital which has been built on the Spanish side with EU, French and Spanish financial support and the doctors' and nurses' wages and the fees of the treatments are financed by the two countries' national health insurance institutions.

Of course, the operation of the hospital run by a French-Spanish joint institution does not miss further obstacles: at the beginning, the registration of French children born there caused difficulties. Even today, the delivery of the ashes of the French persons deceased on the Spanish side is a problem to solve.

All these examples underline that all the obstacles cannot be fully eliminated even within the most innovative frameworks. At the same time, it is not anymore to be proven that the mentioned good practices have significantly improved the living conditions of the people living in border areas, the conditions of access to the health services but these models conform much better to the requirements of economies of scale, too. Therefore, these examples mean a financial advantage too to the national health insurance funds.

### **2.3.1.3 Recommendations**

To ensure cross-border patient mobility and the accessibility of health services is a very complicated issue which covers the patients' rights, the protection of personal data, the mutual recognition of health professions, the harmonisation of different national code systems, the financial stability of the health insurance funds, etc.

At the same time, the European good practices make clear: to overcome the obstacles is not impossible if there is a proper policy background.

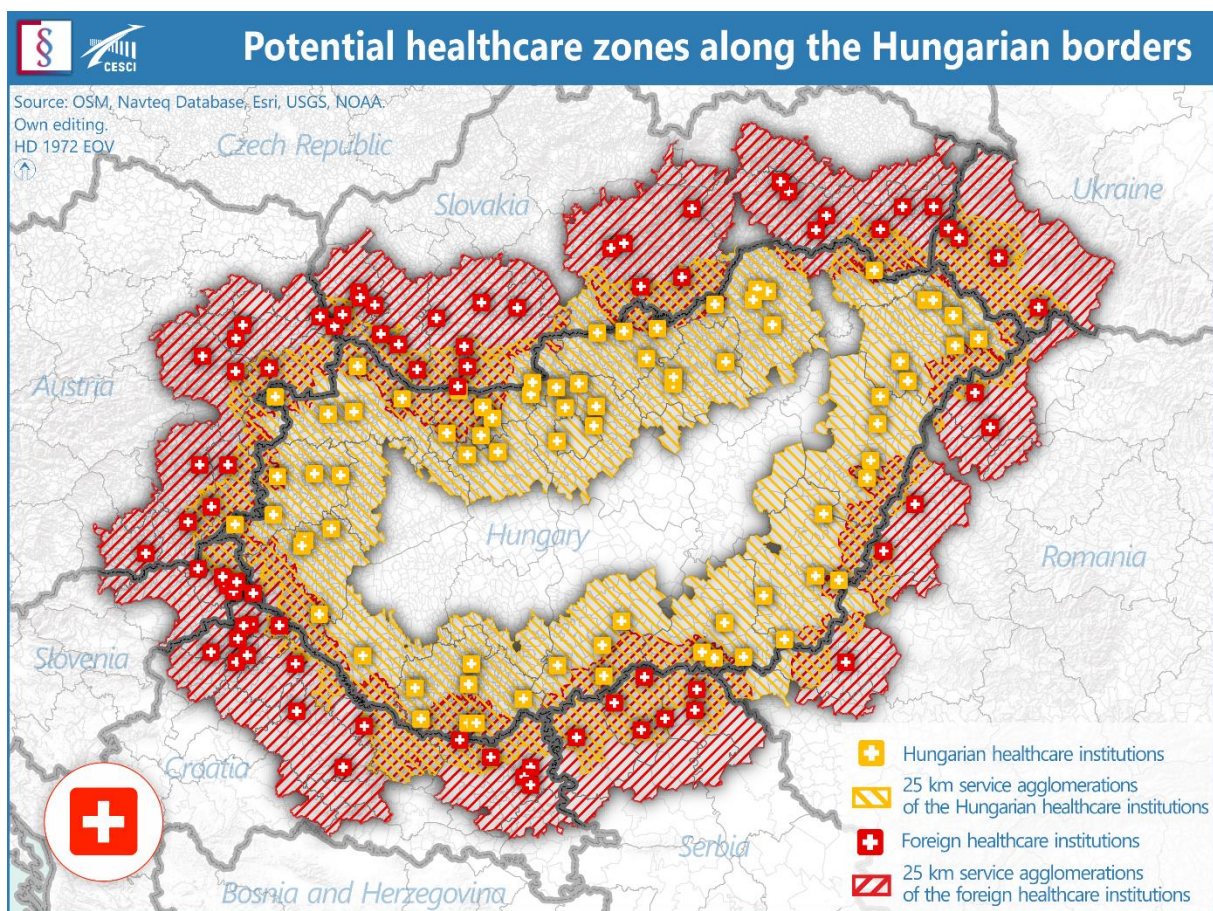
#### ***Policy recommendation***

From the point of view of the accessibility of treatments of suitable standard and the continuity of services, it seems to be worth considering the continuation of the Hungarian policy reform started first in the mid 2000s. In this period of time, a survey on the existing institutional level health cooperation examples was drafted. This survey has pointed out that bottom-up cooperation initiatives could be found in several regions: in the case of Slovakia, eight, together with Ukraine seven, with Romania five,

with Austria one initiative have been identified. Furthermore, that time several contacts with western European partners have been taken, and a Hungarian delegation visited the institutions taking part in the cross-border integrated system launched within the Meuse-Rhine Euroregion. A proposal drafted by an expert group led by Mr dr Tamás Balogh also has been drafted on adapting the German-Dutch system. Unfortunately, these initiatives have run out due to the permanent health reforms focusing on completely different problems.

At the same time, if a serious analysis were done, it would be able to show that

- where we can identify cross-border overlapping treatment zones and
- where a need for complementary exploitation of health services occur.



On the map above we indicated the location of the Hungarian and neighbouring hospitals, taking into account the 15 minutes term of (emergency) accessibility. The map does not give a perfect picture on the overlappings and the regions without services because it does not contain the numbers of beds and the service portfolio of the hospitals. However, it is clearly represented that

- (1) the Hungarian health system finances beds territorially overlapping way in several regions;

- (2) in some regions, the Hungarian hospital is the nearest one for the patients in surroundings.

From which conclude two major conclusions:

- (1) in parallel with the heroic struggle of the Hungarian government for the mitigation / elimination of waiting lists and the serious reconstruction works of the health institutions in country-side financed by the EU, there are available treatments on the other side of the border, sometimes without waiting lists, and vice versa;
- (2) the agglomeration of some Hungarian hospitals could be enlarged to the territories outside the border which would result in a more cost effective operation of the given institution – by using the frameworks provided by the European Union).

The conclusion (1) highlights that it is not impossible to develop a system which is territorially more cost effective and which would prevent the state budgets from financing in all cases the procurement of very expensive and costly functioning diagnostic instruments. Instead – similarly to the domestic treatment zones – there is an opportunity to settle down a complementary system with the neighbouring states, as well: one party specialises on treatments of cardiovascular diseases, while the other on endocrinology or transfusion. Cost effectiveness of the solution can be ensured through the accessibility of the complementary service system from both sides of the border which could compensate the shortcomings in territorial effectiveness resulted from the peripheric situation.

On the contrary, the (2) case opens the way to the expansion of the service agglomeration of the given institution to the other side of the border if there is no nationally organised health care in similar distance. Based on the map above, one can conclude that this is the situation with the hospitals of Esztergom, Balassagyarmat, Gyula and Makó.

Taking into account the different fees of treatments from state to state, cross-border treatment zones similar to the French-Belgian or euroregional models can be developed where the price of these fees and the standards of treatments are nearly on the same level. It is the case with Slovakia, Croatia and Slovenia. In the case of Austria, the level of both the prices and the services are much higher than in Hungary; while the situation is opposite in the case of Romania, Serbia and Ukraine. The former relation would cause severe out-flow of capital at the Hungarian health insurance fund; while the latter one (the opening of the Hungarian health care market) would be unacceptable for the Romanian or the Serbian funds.

In the case of Ukraine, the conditions are profoundly different because at the moment, national health insurance system does not exist there, the institutions are still financed

through a communist system. It also means that even the theoretical opportunity of the reciprocal development of cross-border treatment zones is impossible.

The development of cross-border treatment zones should be preceded by a comprehensive analysis consisting of

- the comprehensive evaluation of the health services provided in the two countries;
- the evaluation of the financial background and the differences in the systems of service fees;
- the measuring of the market demand;
- the review of the cost effectiveness and territoriality of the potential zones – based on the territorial pattern of the two countries' health care systems.

This comprehensive analysis can point out that in which regions is possible to develop cross-border treatment zones – strictly on a reciprocal and balanced way.

### ***Legal recommendation***

Our proposal consists of the signature of a framework agreement of the planned treatment zones – based on the French-Belgian model<sup>15</sup>.

### ***Recommendation for the European Union***

Strict EU and national level legislations of protection of health data does not make possible to develop an IT solution or health register covering all the treatments but

- in the case of emergency treatments a register is operating since it is necessary for the realisation of financial compensation between the member states and their institutions;
- in some special cases data gathering, processing and transmission are allowed and
- the efficient cross-border health service provision is supported also by the EC opinion on m-Health.

Nevertheless, the registration, storage, processing and transmission of health-related data are allowed with goals and in exceptional cases defined by law.

At the same time, at community level, it would be reasonable to develop and use interoperable data bases in order to ensure the flow of information and the efficient communication between the national databases. An essential condition of this is the inauguration of a unique code system and database of diagnoses, the harmonisation of the different national level code systems and signs.

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<sup>15</sup> The Hungarian version of this study contains here a proposal for the agreement which has not been translated.



The Electronic Health Service Space [platform] (EHSS) which is under construction in Hungary will make available an updated data base on all domestic treatments. The personal data will be downloadable (for authorized persons).

The tragic case of Michael Schumacher underlines the need for proper data processing with a view to safeguarding the patients' life. In our opinion, this problem can be tackled at EU level only.

The solution could be a card including the avatar of the given person in a downloadable format in each country's every hospital. This avatar would contain the blood group, the information on medicine allergies and it would indicate the previous health care interventions. Since the card would contain all these pieces of information on a chip, the data should be protected but this could happen through the personal data of birth, too which are available in the patient's identity card.

It is a technological question, how to register the treatment on the chip with the exclusion of the later use of the same information by the hospital. Through this solution the doctor could get suitable picture on the potential interventions in such urgent cases like a skiing accident.

### 2.3.2 Free mobility of ambulance cars across the borders

From the point of view of patients' cross-border mobility it has a considerable importance that in emergency cases, the ambulance cars cannot cross the border because of administrative barriers.

#### 2.3.2.1 Legal framework

The participants of the stakeholder workshops have formulated the obstacle as it follows:

- **the emergency cars of the ambulance service are not allowed to cross the border even in the case if the hospital or health care institution on the opposite side of the border is the nearest one; this barrier is existing with every neighbouring country except for Austria: the Austrian ambulance cars takes back the patients without informing the Hungarian authorities.**

Based on the interviews and the analysis of the legal framework, we can establish that the ambulance systems of the EU member states are different but one of their joint characteristics is that the emergency services are in all countries managed by the state or the local municipalities with a territorial limitation of the country. The services are ensured along by a territorial pattern and in most cases, the state is the financing party. As for the current issue (transport of the patients), it has to be highlighted that we have to differentiate between *rescue services* and *planned patient transport*.

In line with the relevant Hungarian provisions the rescue services including the transport to the nearest health institution within the territory of Hungary is everyone's legal due. At the same time, the practice does not justify the validity even of this individual right: from geographical reasons, the patients are often transported to a health institution which is not the nearest. Although the nearest hospital to Zemplénagárd is located in Kisvárd, the crossing over the Tisza river is ensured by a ferry which remarkably prolongs the transportation time. The situation is very similar in Hercegszántó from where the nearest urban centre is Mohács but the ambulance cars should cross the Danube on a ferry boat. From the Lower Ipoly valley (in the territory of the district of Szob) the hospital operating in Esztergom is three times nearer than that in Vác but to reach the former one, the border should be crossed twice. By all these extreme examples we wanted to demonstrate that even within the territory of Hungary one can find cases when the health centre which is geographically the nearest, from the viewpoint of transport is not.

Much more important issue is the border regions' people's rights to health care. This issue is conspicuous in cases when a well-equipped hospital on the other side of the border would mean the nearest institution (like in Košice, Oradea or Bratislava). Of

course, the problem does similarly exist in the opposite way, too: in other cases the Hungarian hospital can be identified as the nearest one for the patients injured on the other side of the border (like in Esztergom, Balassagyarmat, Sátoraljaújhely or Gyula). Nevertheless, the relevant provisions have been formulated along a strict territorial pattern. The *Regulation 5/2006.(II.7.) of the Ministry of Health on rescue services* concerns the territory of Hungary, of course.

The paragraph 2 of the provision above (obviously for quality insurance reasons) ensures an extremely narrow room for manoeuvring for the service providers outside of the National Ambulance Service (NSA):

*2. § b) The organiser of rescue activities can be the National Ambulance Service and other legal or natural persons authorised by this provision fulfilling the staff and technical requirements listed in the Annex 1 and being in possession of a permission issued by the National Medical Chief Officer's Office of the National Public Health and Medical Officer Service defined by a separate legislation.*

The technical and staff requirements for issuing the permission are summarized in the *Regulation 2/2004.(XI.17.) of the Ministry of Health on the registration of the health service providers and their permissions of operation as well as on the health professional register.*

Therefore if anyone wants to take part in the patients' transport (except for the National Ambulance Service) they have to previously procure the relevant permission for operation what is really unrealistic in emergency cases and it restricts also the EU citizens' right to be treated. It is the reason why the practice of concluding bilateral agreements for emergency cases is generally used with the neighbouring countries' governments.

Hungary has effective agreements for the handling of crisis situations. These are summarised in the table below.

Neighbouring country	Relevant agreement
<b>Austria</b>	<i>Law CXII of 1999 on the publication of the Agreement of the Republic of Hungary and the Republic of Austria on the mutual aid provided in catastrophes and serious disasters</i>

Neighbouring country	Relevant agreement
<b>Croatia</b>	<i>Government decree 114/1998.(Vi.11.) on the publication of the Agreement signed by the Government of the Republic of Hungary and the Government of the Republic of Croatia on 9<sup>th</sup> July, 1997 in Budapest on the protection against the catastrophes of the nature and civilisation</i>
<b>Romania</b>	<i>Law LXXXI. of 2004 on the publication of the Agreement signed by the Government of the Republic of Hungary and the Government of Romania on 9<sup>th</sup> April, 2003 in Budapest on the cooperation and mutual aid provided in the cases of catastrophes</i>
<b>Serbia</b>	<i>Law CXCVII. of 2013 on the publication of the Agreement of the Government of Hungary and the Government of the Republic of Serbia on the cooperation and mutual aid provided in the cases of catastrophes</i>
<b>Slovakia</b>	<i>Government decree 212/1997.(XII.1.) on the publication of the Agreement of the Government of the Republic of Hungary and the Government of the Republic of Slovakia on the cooperation and mutual aid provided in the cases of catastrophes</i>
<b>Slovenia</b>	<i>Government decree 150/1995.(XII.12.) on the publication of the Agreement of the Government of the Republic of Hungary and the Government of the Republic of Slovenia on the protection against the catastrophes of the nature and civilisation</i>
<b>Ukraine</b>	<i>Law IX. of 2000 on the publication of the Agreement signed by the Government of the Republic of Hungary and the Government of Ukraine on 27<sup>th</sup> October 1998 in Budapest on the cooperation for the prevention and elimination of the consequences of serious accidents and on mutual aid provision</i>

Every agreement defines in details the conditions of the interventions carried out on the other side of the border (based on mutually accepted definitions), the circle of the organs to be involved in rescue operations, the responsibility of coordination, the rules of rescue parties' moving and the way of arrangement of costs related to the operations. During these operations the staff members do not need passport, residence or visa permit. In extremely acute cases the borders can be crossed even outside official border crossing points without taking account of provisions in effect. In

these cases the competent border guarding and customs authorities must be informed at the earliest opportunity.

At the same time, during the interview making we were informed that the traffic regulations do not allow for the ambulance cars to use the distinguishing signs abroad what remarkably influences the manoeuvring opportunities of these vehicles.

In accordance with the *Regulation 19/1998.(VI.3.) of the Ministry of Public Health on patient transport* drafted based on the authorisation given by the g) and f) points of the (2) sub-paragraph of the paragraph 247 of the *Law CLIV. of 1997 on health*, the planned transport of patients is a service provided within the framework of health insurance what must be ordered by the doctor on a voucher. Its aim is to guarantee the access to the health care service if the case does not make necessary the ambulance workers' control and the accessibility of the health care service cannot otherwise be ensured.

The cross-border patient transport is mainly carried out by private service providers which do not use the distinguishing signs in transportation (the dispatcher service is provided by the NAS, in these cases, too).

### 2.3.2.2 Best practices in Europe

The best practices from Europe point out that the practice of the limitation of the cross-border mobility of the ambulance cars is not self-evident. According to the partnership agreement of the Danish Syddanmark region and the German Schleswig-Holstein province both countries' ambulance cars are allowed to cross the border and to transport the injured person to the nearest health institution.

In the triborder area of Belgium, Germany and the Netherlands 9 institutions are involved in the partnership. The so-called *Eumed hospitals* have published their treatment capacities for a one-two hours term (101 in total). According to the *Eumed-ambu* system the institutions of the network are considered like ones of one single country and in urgent cases the injured persons are shared among them in line with the capacities previously published. The injured persons can be transported to the selected hospital by either countries' ambulance cars.

The euroregional system has been expanded to the air rescue services, as well: German ambulance helicopters are allowed to enter the air space of the Netherlands and they can transport the wounded persons even into the German clinics.

All these mean that if proper openness and flexibility is given, the obstacles currently seeming to be insurmountable can be overtaken.

### 2.3.2.3 Recommendations

#### *Legal recommendation*

It would be rational to extend the provisions related to the state borders of the regulation on urgency rescue operations to the territory of the abovementioned treatment zones or to a rationally identifiable zone of access – based on interstate agreements. In these cases, the territorial scope of the given country's legislation on urgency rescue operations could be expanded with an index on the proper level provisions ensuring the necessary exceptions.

In the agreements, at least the following fields should be ruled in a concrete way ensuring an operational framework for the system of cross-border rescue:

- **the amendment of the paragraph 2 of the 2/2007.(III.13.) Regulation of the Ministry of Police and Justice** with an objective of ensuring the opportunity of the use of distinguishing sign for the foreign rescue and patient transport vehicles;
- amendment of the legislation related to the treatment zones since the hospitals can deny the treatment even for domestic patients in case of not serious injuries or if there is no need for special care; therefore the modification of the regulation of the **treatment zones** or (if necessary) the formation of cross-border treatment zones is necessary.

For this purpose, the following legal texts should be taken into consideration:

- *the Law CXXXII. of 2006 on the development of the health care system* which establishes and amends the legislation on former treatment zones. The Governmental Entity responsible for Health-care keeps records in a public register on the capacities of the health service provider which is open for the public;
- *the Law CLIV. of 1997 on health* from which the 131. paragraph establishes that the doctor can deny the patient's treatment after the examination only if based on the results of the examination it becomes clear that (among others) the personal and technical conditions for the proper service provision are lacking at the service provider;
- *the Government decree 217/1997.(XII.1.) on the implementation of the Law LXXXIII. of 1997 on the treatments of the mandatory health insurance* which establishes that the treatment cannot be denied if it is linked to a service registered at the particular health service provider (in our opinion, the recommended cross-border treatment zones should constitute an exemption).

### ***Policy recommendation***

In our interviewees' opinion the development of the cross-border system of rescue operations can be imagined in a gradual way only. As a first step, the use of distinguishing sign on the other side of the border should be allowed and that the patient be transported to the nearest domestic hospital. If this system is proven proper or cross-border treatment zones are identified, the euroregional model could be applied. The related negotiations should be conducted by the NAS.

The gradual development of the system needs the following policy level interventions.

- (1) The rescue operations abroad are impossible without the guarantee of the technical conditions of the cooperation with the dispatcher services of the neighbouring countries. The inauguration of the European Emergency Number (112) creates a favourable situation for this. When receiving a call, the system „makes decision“ on the addressee based on the location of the calling party. The identification of the location makes possible to carry out the rescue operations even from the other side of the border with the involvement of the neighbouring country's dispatcher service.
- (2) From the point of view of coordination of the operations, the lack of language knowledge seems to be a bigger problem than the technical issues. Along the Danish-German border it does not cause problems since the major part of the population knows both languages. On the contrary, in the Hungarian case the operator of the dispatcher centre should speak 6 different languages at least if the system would be expanded to the territory of all neighbouring countries. This problem has been solved in the German-Dutch-Belgian triborder area with the help of a multilingual on-line rescue vocabulary. In the practice of the NAS there are examples for the employment of interns coming from the neighbouring countries. This system could be developed further through language courses or by hiring employees speaking the given languages.
- (3) For the purpose of the identification of the border zone an agreement on mutual financing is also needed which ensures that the costs of the fuel used and the service provided on the other side of the border in every case are financed by the country of affiliation of the patient.

### ***Recommendation for the European Union***

The conditions of free cross-border patient transport could also be supported by EU level interventions. In our interviewees' view, to issue EU level permissions of vehicles would mean a solution for the limited mobility of the ambulance cars. By using this, they could move on the territory of the neighbouring countries as well. If this cannot be real, the EU member states could ensure this opportunity for each other's ambulance services through bilateral agreements.

In addition, the EU could facilitate the free mobility of ambulance cars and their staff across the border by applying the European vocational training framework system as soon as possible in each EU member state. In this regard, the 2005/36/EC Directive and the 2013/55/EU Directive ensure proper frames.



## 2.4 Local products

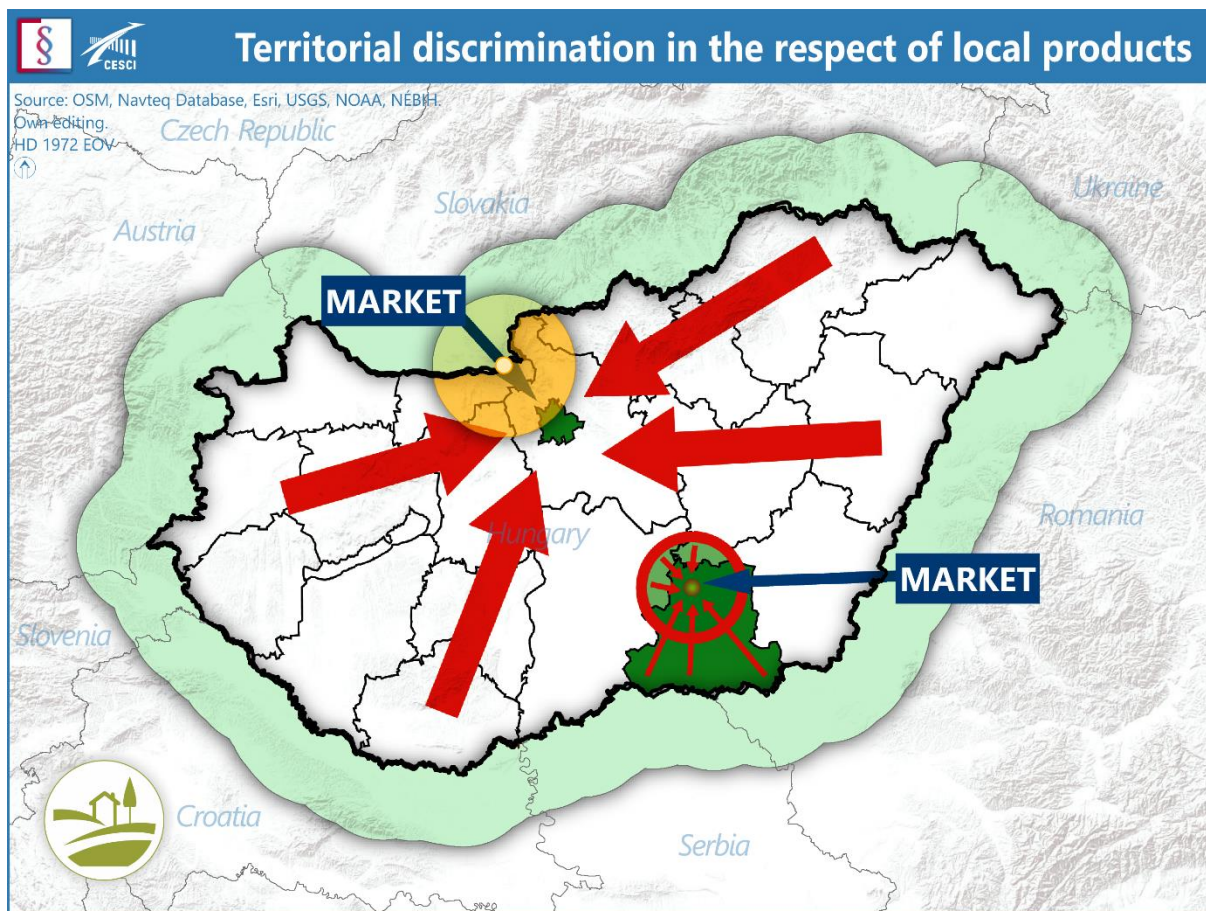
The project workshops shed light on three main categories of obstacles related to the regulation of local products in Hungary:

- **those producing local products abroad are not regarded as small producers, and their cross-border official control is not resolved;**
- **foreign small producers shall not trade their local product on farmers' markets in Hungary;**
- **contrary to Hungarian small producers, a foreign producer is not entitled to personal VAT exemption, since they do not settle in Hungary for economic purposes, and they are not likely to obtain habitual residence;**
- **difficulties with the quality marks of local products that are recognized in other countries as well.**

The root of these problems is that the regulation of small producer activities (the direct supply of small quantities of primary products for either the final consumer or local facilities directly supplying the final consumer) fall under Member State competence. The concerned producers are registered and monitored by national food chain safety offices based on national legislation, and their powers do not extend to areas beyond the border. In the absence of EU-level regulations and due to misaligned national regulations, small producers shall not trade their food products directly (outside the retailer network) beyond the border.

As a result, though domestic markets are protected, food safety standards are ensured, and small producers are given support, the consumer rights of those living in the border areas are violated. While citizens in the middle of the country are provided with local products from a circle of larger radius, border citizens are the "victims" of territorial discrimination. For instance, an inhabitant of the city of Sopron may only purchase Hungarian local products, since Slovakian and Austrian ones cannot be traded on Hungarian farmers' markets. This territorial discrimination is shown in the figure below.

Such dissonances deteriorate the conditions under which border citizens get access to healthy food. In this case, territorial discrimination means that citizens in various parts of the country do not have equal access to healthy food as a local product: border citizens are supplied with a smaller range of local products, which in certain cases might even lead to the consumption of food of lower quality.



This form of discrimination, which is a logical consequence of the territorial competence of national authorities, persists even despite the fact that access to healthy food is supported by the national legislation of Hungary. According to the *Fundamental Law of Hungary*,

*Article XX (1) Everyone shall have the right to physical and mental health.*

*(2) Hungary shall promote the effective application of the right referred to in Paragraph (1) by an agriculture free of genetically modified organisms, by ensuring access to healthy food and drinking water, by organising safety at work and healthcare provision, by supporting sports and regular physical exercise, as well as by ensuring the protection of the environment.*

Consequently, the main goal of the proposals that follow is to revise and amend the current protectionist (favouring local producers) legislation, to ensure equal access to healthy food as a local product. The extension of regulations and the harmonisation of the national legislation of the concerned countries would contribute to achieving this goal.

### 2.4.1 Legal framework

The *Agricultural and Rural Development Minister Decree of 52/2010 (IV. 30.) on the preconditions for the production, processing and selling of food by small producers* (hereinafter referred to as the small producer decree) provides the frames for the production and trade of small producers' products. The decree provides the opportunity for registered small producers to trade in small quantities their primary products and food products processed from their primary products directly to the final consumers or retail and catering establishments with quantity and territorial limitations in Hungary.

The small producer decree refers to the fact that national legislation is based on EU legislation:

*Article 9 (2) This regulation lays down the provisions for the implementation of the following Community regulations.*

*a) Article 1 (2c) and (3) of the Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs,*

*a) Article 1 (3c), (4), and (5a) of the Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin."*

The referred regulations state that the rules governing small producer activities (the direct supply of small quantities of primary products for either the final consumers or local facilities that directly supply the final consumer) are set by the Member States in accordance with the national legislation. These rules shall serve the objectives of the EC regulations. Other Member States like Slovakia also have national regulations that are similar to the small producer decree, but the national legislation only applies within the borders and its scope cannot be extended to other Member States. Similarly, the competent authorities may only act in their own country.

According to Paragraph (1) of the small producer decree, a small producer is an entity which supplies in small quantities with their primary products and food products processed from their primary products either the final consumer directly, or the retail and catering establishments that are located within the region or within 40 km as the crow fly from the farm of the small producer. The definition "within the region" is specified in Paragraph (2): in the county of the location of the small producer's farm or the place of manufacture, or of Budapest.

A further problem is that not only the producers of foreign local products are regarded as small producers in Hungary, there are obstacles to trading, too. According to Article 2 (5a) of the *Act CLXIV of 2005 on Trade*, a local farmers' market is a market where a

small producer shall trade their agricultural products and foodstuffs that were produced in the county in which the market is located or in an area within a radius of 40 km from the market, or in the case of a market in Budapest, products that were produced in the territory of Hungary. In accordance with this definition, only domestic products shall be traded on such markets, and foreign producers are excluded.

However, any small producer may trade their products beyond the border without any quantity and territorial limitations, though not as a small producer but as a natural person or farmer, subject to food safety standards that apply in such cases. It results in a loss of competitiveness for producers and retailers, and in short supply for consumers. It is worth mentioning further regulations that provide for the conditions of small producers and local farmers' markets.

- *Government Decree No 210/2009 (IX. 29.) on the conditions governing commercial activities* – the regulation provides for commercial activities that are subject to registration, for their conditions, and for the products that may be only sold in store;
- *Government Decree 55/2009 (III. 13.) on fairs, markets and shopping centres* – the regulation lays down the rules for the creation and operation of local farmers' markets.

We also need to mention the tax law issues concerning the selling of local products coming from across the border. Tax legislation in Hungary is based on the *Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax*. According to the *Act CXXVII of 2007 on Value Added Tax* of Hungary (VAT Act), sellers of local products engage in a taxable transaction. Contrary to Hungarian small producers, a foreign small producer is not entitled to personal VAT exemption, since they do not settle in Hungary for economic purposes, and they probably do not obtain habitual residence in Hungary.

As mentioned above, all products produced and marketed in accordance with the applicable EU legislation may be freely marketed in Hungary as well as in other EU member states. It means that in the case of products of non-animal origin, the producer shall be a registered establishment, and in the case of products of animal origin, an approved establishment. The related legislation is uniform in all Member States, and is based on the following regulations:

- *Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs*,
- *Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin*.

The products of small producers supplying Hungarian final consumers, and retail and catering establishments are subject to two criteria:

- firstly, it is important to comply with food safety and food hygiene standards (the initial aim of the lawmaker was to ensure the supply of healthy agricultural products and foodstuffs);
- secondly, registered small producers shall trade in small quantities their primary products and food products processed from their primary products directly to the final consumers or retail and catering establishments with quantity and territorial limitations in Hungary.

Producers from the border region or other countries often meet these criteria, too. They would in every aspect meet the requirements laid down by Hungarian regulations: they engage in activities “locally”, in the vicinity of the consumers, and they produce their products safely and in small quantities.

## 2.4.2 Recommendations

In order to provide equal access to healthy food as a local product we propose: changes in the restrictive Hungarian regulations; the authorisation of selling of local products in Hungary made by producers from the border areas of neighbouring countries; eliminating practical difficulties (competitive disadvantages) connected to VAT; furthermore in the frames of a bilateral agreement, based on reciprocity principle, the crossing of territorial scope of the given countries’ legislation; or the drafting of a joint regulation for the border area. With the latter we would like to expand the market opportunities of domestic small producers.

### Legal recommendation

In order to establish short supply chains we suggest the conclusion of bilateral agreements according to a framework agreement with all the neighbouring Member States.

*The harmonization of national legislation included in the bilateral agreement is expected to be resulted in the modification of e.g. the [Agricultural and Rural Development Minister Decree of 52/2010 \(IV. 30.\) on the preconditions for the production, processing and selling of food by small producers](#). Thus, it can has an effect on the legislation in relation to the definition “within the region”.*

A sample for existing regulation	A sample for proposed regulation
2. § For the purposes of the regulation: 11. Within the region: the location of the small producer’s farm, and – in accordance with the provision of 3. § (3)	2. § For the purposes of the regulation: 11. Within the region: the location of the small producer’s farm <b>in Hungary or beyond the border up to 40 kilometers</b>

<p>paragraph – the place of manufacture, and of Budapest.</p>	<p><b>from the state border</b>, and – in accordance with the provision of 3. § (3) paragraph – the place of manufacture, and of Budapest.</p>
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In accordance with the Agricultural and Rural Development Minister Decree of 52/2010 (IV. 30.), the modification of Article 2 (5a) of the *Act CLXIV of 2005 on Trade* will be necessary. We suggest the modification of the definition of local farmers' market as follows:

A sample for existing regulation	A sample for proposed regulation
<p>2. § 5a. is a market where a small producer shall trade their agricultural products and foodstuffs that were produced in the county in which the market is located or in an area within a radius of 40 km from the market, or in the case of a market in Budapest, products that are from a farm economy operating anywhere in the territory of Hungary.</p>	<p>2. § 5a. is a market where a small producer <b>engaged in food production in the domestic or neighboring country</b> shall trade their agricultural products and foodstuffs that were produced in the county in which the market is located or in an area within a radius of 40 km from the market, or in the case of a market in Budapest, products that are from a farm economy operating anywhere in the territory of Hungary.</p>

### **Policy recommendation**

The most recommended policy step may be that, for equal access to healthy food as a local product the competent bodies' the attitude should overcome state boundaries, and based on the proposed bilateral agreements the cooperation between the bodies of countries concerned should be initiated in order to create cross-border short supply chains.

At the same time, in the respect of cross-border trade of local products also practical issues are to be solved, for example the competitive disadvantage of small producers deriving from the tax system. The goal is that a small producer settled in a distance of up to 40 kilometers from the state border, established a place of manufacture and engaged in production activities enjoy the same tax advantages as the small producers of the given country do, in case the producer would like to sell his/her local products in the neighbouring country. To this end, it is proposed to provide a detailed overview of the relevant legislation and to develop a tax solution to address the situation.

### 3. Horizontal recommendations



#### 3.1 Recommendations for a three-level obstacle management

Generally speaking, border areas with the lowest number of everyday obstacles are the ones between countries with no cooperation activity. The more intense cooperation is in an area, the more obstacles partners have to face. In addition, experience suggests that the elimination of one obstacle might generate many more, and therefore not necessarily resolve all problems in the region.

As a result, identifying obstacles and giving recommendations to overcome them through the Legal Accessibility project are not one-off tasks. The Scandinavian model that follows is a good example for cooperation between countries that aims to eliminate administrative barriers with a negative effect on citizens' lives.

We are convinced that the Hungarian government have various kinds of means to eliminate such barriers along the border. In this regard, we have come up with three horizontal (meta) recommendations. While the set of recommendations of the project addressed particular sectoral problems, the following horizontal recommendations offer general suggestions to cope with these obstacles, to ensure the sustainability of the project and to lay the basis for its further consideration.

### 3.1.1 Cross-border Impact Assessment

Experts' forums on cross-border cooperation in Brussels often come up with the idea that national draft proposals should be subject to an ex-ante assessment procedure to evaluate their potential impact on border areas and cross-border cooperation. Even though it is not likely that the EU would adopt such regulations in the foreseeable future, a territorial impact assessment prior to the adoption of legislations with territorial limitations is nonetheless worth considering.

Let us have a look at the regulation controlling local producers' access to the market. It stipulates that local products may be traded within the county, in Budapest, or in an area with a 40 km radius from the place of production. The latter requirement aims to protect retailers' competitiveness that may be at risk if their place of production is located on the periphery of a given county and is therefore closer to localities in the neighbouring counties. Still, the regulation does not address the issue of border areas, so even though it was based on the initiative to promote access to healthy food, it is (unintentionally) discriminative: access to healthy food for an inhabitant in Sopron is more restricted than for an inhabitant in Kecskemét.

Such cases shed light on the importance of an ex-ante assessment of cross-border impacts, which may be carried out by a competent ministry department (e.g. the Cross-border Economic Cooperation Department of the Ministry of Foreign Affairs and Trade). An inter-ministerial committee, to be involved in the assessment procedure as a provider of a consultation forum for sectoral experts, could also be set up. Since regulations generally regard a wide range of professional matters that legal experts are not necessarily familiar with, an expert group could provide stakeholders with the necessary professional framework.

An inter-ministerial committee would have a key role in raising ministerial awareness, too. Many of our respondents said that certain ministries, with reference to their statute, disregarded cross-border matters unless it had been binding at EU level. They cannot be expected either to deal with questions that fall beyond the national scope of the laws passed by the Parliament; as a result, the majority of ministries have no expert to reflect on cross-border issues. But if a permanent inter-ministerial committee was set up, each ministry would have at least one expert with the necessary competence, who could also spread this approach within the department.



### 3.1.2 Bilateral Working Groups in Cooperation with Neighbouring Countries' Authorities

It was clear well before the launch of the project that the involvement of neighbouring countries and their positive approach are key factors to successfully combat cross-border obstacles. Regulation amendments in Hungary do not facilitate local conditions if regulations on the other side of the border remain restrictive.

Stakeholder workshops too justified these expectations. We were confronted with problems that would either require regulation amendments in the neighbouring country as well, or are entirely affected by the legislation of the neighbouring country and therefore fall beyond the scope of Hungarian authorities.

The Hungarian government began to establish a system of joint committees with competent ministries of neighbouring countries in 2004, with the setting up of the Austro-Hungarian and Slovak-Hungarian Forums, followed by the Ukrainian-Hungarian in 2006, and the Slovenian-Hungarian joint committee in 2009. These committees were created to support cross-border cooperation and the work of decision makers by making initiatives in specific cooperation areas.

In the past years, these committees have experienced a decline and in the case of Romania and Serbia they never made it to establishment. The persistent call for eliminating obstacles (by identifying administrative burdens and making proposals during regular meetings) would give a fresh start for the system.

Given the present structure of the Hungarian government, we consider the Ministry of Justice the potentially most adequate coordinating body, as it is the source of amendments necessary for the elimination of obstacles.

### 3.1.3 A Macro-regional Platform for Cooperation

Beyond bilateral relations, Hungary is regarded as a potential pioneer country in the coordination of Central European cooperation, which may be established following the example of the Nordic Council, which in the following we are going to introduce.

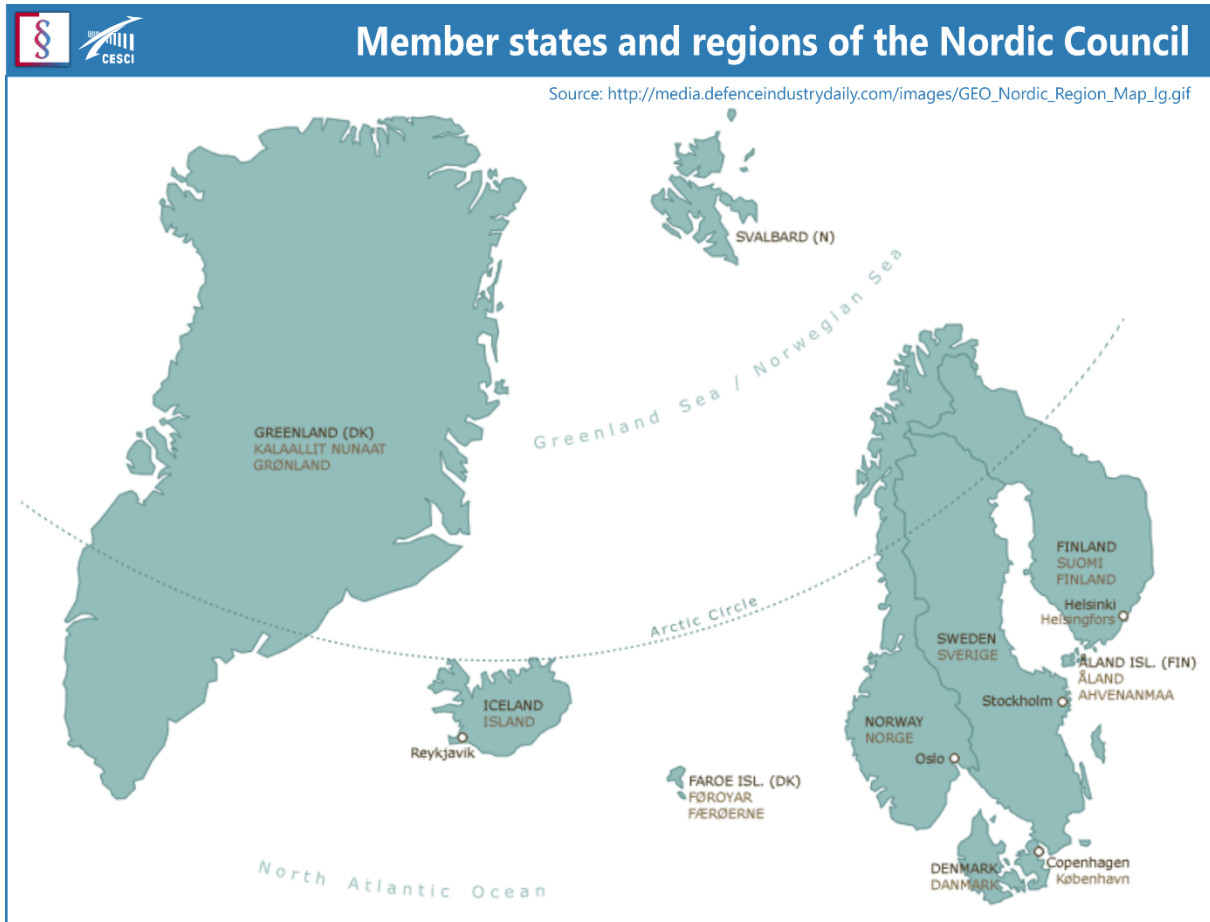
#### *The Nordic Council as a model*

Similarly to the European Economic Community, the establishment of the Nordic Council was justified by World War II experiences. The initiative came from Denmark in 1951, and aimed the creation of a consultative body to unite the leaders of Scandinavian countries.

The year 1952, when it was approved by Denmark, Sweden, Norway and Island, may be regarded as the year of foundation of the Nordic Council.

The first plenary session of the Nordic Council was held in 1953. Finland joined the Council in 1955, followed by Faroe and Åland Islands (each of sovereign status) in 1970, and by Greenland in 1984. The Helsinki Treaty, signed on 23 March 1962, provided the cooperation with an institutional framework.

The Council has 87 members, all members of parliament of their respective countries. Finland reserves two seats for the delegates of Åland, and Denmark reserves two for those Greenland and the Faroe Islands, respectively.



Source: [http://media.defenceindustrydaily.com/images/GEO\\_Nordic\\_Region\\_Map\\_lg.gif](http://media.defenceindustrydaily.com/images/GEO_Nordic_Region_Map_lg.gif)

In 1971, member states established the Nordic Council of Ministers, so that executive body members (beside those of the decision making body) are also given the opportunity to hold regular consultations. The Council of Ministers consists of 10 councils dedicated to separate policy areas, whose members meet twice a year to coordinate national policies. The secretariat is located in Copenhagen and has a flexible structure, determined by specific or public policy decisions. Its wide range of activities is currently carried out by more than 100 employees of different status and nationality, in a total of 6 departments.

Similarly to the Benelux cooperation, the Nordic Council in many respects preceded the initiatives of the EEC and the EU. To start with, members abolished passport control

in 1952, and adopted measures to improve transport facilities in 1958 (very similarly to the Schengen system). Since 1954, workers are allowed to move free between the member countries. The Nordic Convention on Social Security was implemented in 1955. They established a common cultural fund in 1955 and a joint investment bank in 1975.

The Freedom of Movement Council<sup>16</sup>, of particular importance for our recommendations, was created by the Council of Ministers in 2014, after professional events had revealed the hindering effect of legal and administrative borders on countries' competitiveness. It has a rotating presidency, chaired by a representative from a different country every year. It has 10 representatives, one from each member country. In October 2014, at the beginning of its work, a total of 28 priority areas under eight categories were identified for development<sup>17</sup>.

Priority areas	Number of identified problems
Employment	3
Training	5
Social security	6
Taxation	5
Economy	5
Other	3
Acute	1

The members agreed on the elimination of 5–10 barriers a year, and to continuously track and report on the measures of member states. In the reports, red colour is used to mark no action, yellow for actions in progress, green if no information is available yet on the outcome of the progress, and blue for the successful elimination of the barrier. The Council has a separate database on free movement, listing carried out, incomplete, obsolete and completed actions of each member state<sup>18</sup>.

Hello Norden is the information service of the Council, which was launched in 1998 to provide information via telephone, and which operates as an online service since 2001. The network has offices in each member country as well as in the Faroe Islands, Greenland and the Åland Islands. It provides information about housing, travelling, studying, employment, healthcare services, taxation and even maternity leave. In 2015,

<sup>16</sup> <http://www.norden.org/en/nordic-council-of-ministers/ministers-for-co-operation-mr-sam/freedom-of-movement/the-freedom-of-movement-council>

<sup>17</sup> <http://www.norden.org/en/nordic-council-of-ministers/ministers-for-co-operation-mr-sam/freedom-of-movement/the-freedom-of-movement-council/graenshinderraadets-aarsrapport>

<sup>18</sup> <http://www.norden.org/en/nordic-council-of-ministers/ministers-for-co-operation-mr-sam/freedom-of-movement/freedom-of-movement-database>

they provided assistance in 3000 cases. Additionally, their activity includes the organisation of professional events to further inform inhabitants on mobility opportunities and other cross-border issues.

They are in close cooperation with SOLVIT, an information service created by the national administration of member states, and with the Freedom of Movement Council: in practice, citizens who live along the border report on experienced barriers to Hello Norden, which submits these issues to the Council. The secretariat in Copenhagen compiles a list of these barriers to the Freedom of Movement Council who then mark 3–5 issues as top priority. By the end of the consultations, they identify 5–10 barriers to overcome in the given year. It does not mean, though, that they actually succeed in each case. The Council makes proposals for the member countries who then decide whether to agree or dismiss them. To influence their decisions, the Council often prepares an analysis on the given barrier and the additional costs it generates.

### ***A proposal for the intensification of the Danube and V4 cooperation***

#### ***Justification of geographical eligibility***

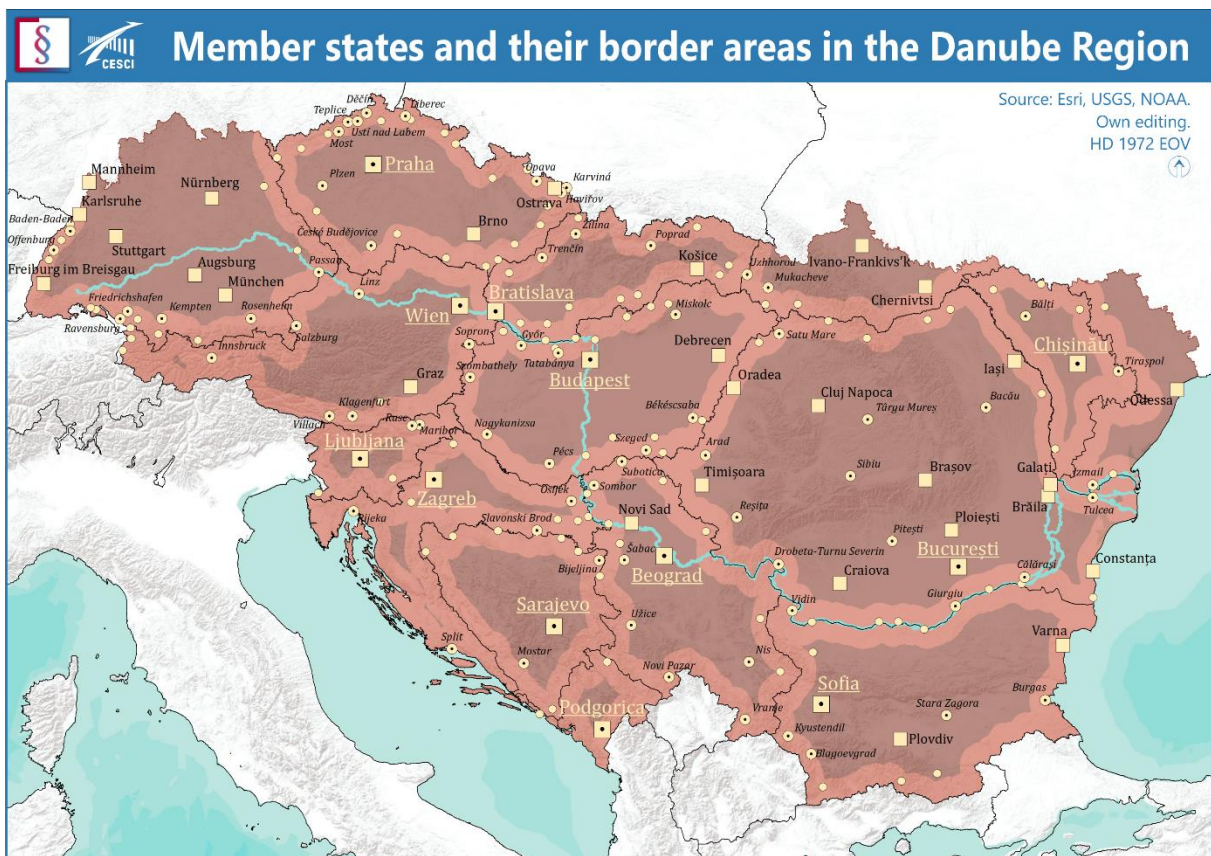
Hungary is a member country of two macro-regional initiatives that may be improved on the basis of the Nordic Council model, namely the Visegrad Group (V4) and the Danube Region Strategy (EUSDR).<sup>19</sup>

While V4 is similar to the Nordic Council in terms of objectives and functioning, the latter bears resemblance to the EU Strategy for the Baltic Sea Region as it supports EU cohesion policy rather than political objectives.

In the case of the Danube Region Strategy, borderland areas account for a staggering 43% share, primarily due to low average country sizes (75 000 km<sup>2</sup>). As a result, though the V4 cooperation provides a favourable political-institutional framework to create a structure that promotes free movement and a platform to eliminate barriers, the Danube Region Strategy would prove more efficient in achieving these goals. It needs to be mentioned, though, that all V4 countries are EU members, which is of considerable importance for joint actions in combatting barriers, compared with the case of “Danube” countries of rather varied status.

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<sup>19</sup> Furthermore, we are members of the Central European Initiative and the Carpathian Convention, but we do not think that their current framework could serve as a basis for an initiative to create and coordinate such a cooperation.



Nevertheless, we find it important to consider the prospect of establishing a Council in EUSDR in connection with priority area 10, even with operation limited to the nine member states.

The initiative would significantly facilitate both forms of cooperation (especially the EUSDR) by introducing new tasks in the network every year.

### **Organisation**

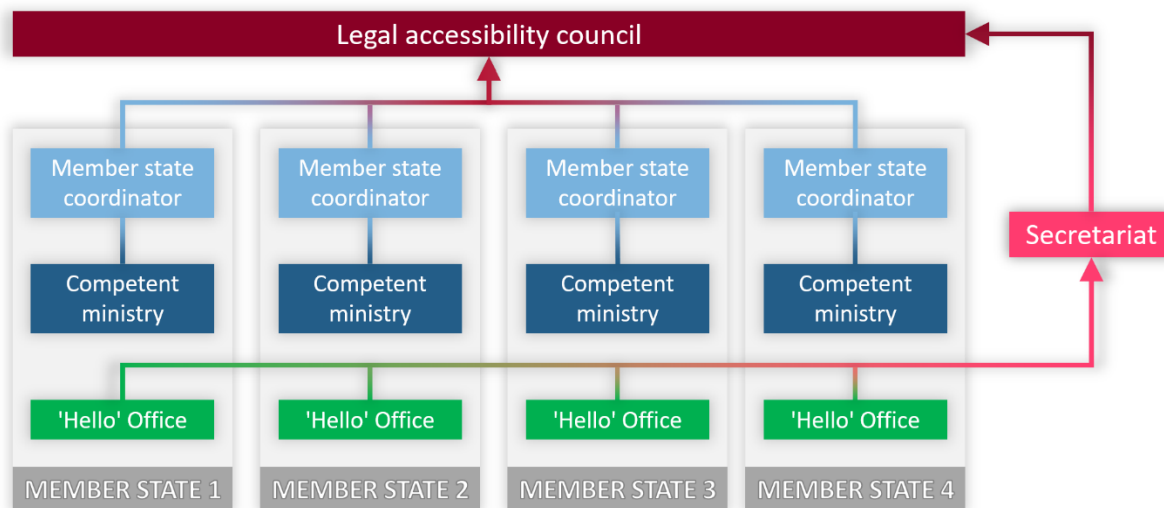
The platform, either V4 or Danube, could follow the practice of Nordic Council of Ministers in every aspect. In both cases, cooperating parties would be represented by delegate ministers. Similarly to the Scandinavian model, the Council would meet annually to set priorities for the removal of barriers. Proposed facilities could function similarly to EU directives: each council member would undertake to take measures to remove a given barrier, in line with their own legislation.

It could also be chaired by another country every year, but it would be reasonable to establish a secretariat (in Budapest), to

- coordinate the preparation of decisions on priorities (by collecting observations, by creating and sending out the lists of priorities, and if possible, by carrying out ex-ante analyses on the barriers),
- provide administrative support for the work of the Council (by preparing, performing and documenting sessions, by coordinating inter-session activities, and by performing general administrative tasks in accordance with the principle of rotation),
- track the follow-up of the decisions made by the Council in the form of annual reports and continuous consultation with the ministries concerned.

Similarly to the V4 Secretariat in Bratislava, this secretariat should also have an international character.

The Hello Norden network of the Scandinavian model is another element worth following, to create a “Hello Visegrad” or “Hello Danube” information service network. It does not necessarily require the establishment of new institutions, as these countries’ already existing cross-border initiatives could be integrated in the network. These services could assist in compiling annual priority lists.



*Proposed structure of the Legal Accessibility Council*

The above horizontal recommendations can be organised in a three-level structure. Firstly, we recommend taking the project forward to a **ministerial or inter-ministerial** level. Secondly, we would like to highlight the importance of creating or renewing the dialogue on eliminating barriers between **neighbouring countries**. Thirdly, we suggest the integration of these bilateral initiatives in a larger-scale, **macro-regional** platform. It would imply that not only do we attribute particular importance to the protection of the Schengen border, but also strongly favour any sort of movement across intra-EU borders.

### 3.2 Improvement of information mechanisms

The assessment phase of the project revealed that in most cases, the main obstacles to the deepening and widening of integration are rooted back to the lack of (valid) information and the spread of false information, rather than (only) legal barriers. This is a general problem, which is present in every sector, though to a different degree. The key for successful cross-border communication is a framework that provides access to up-to-date valid information in multiple languages.

Access to information on the other side of the border is crucial for extending the scope of an issue and seeking contacts and solutions across the border. The openness of sectors facilitates the cross-border flow of information, and stakeholders should place particular emphasis on gathering information on legal environment.

Many initiatives fail due to the following reasons: information is either unavailable in the given language or it is controversial, the network of cross-border contacts is rudimentary, or actors lack the capacity to hire experts to interpret and translate the legislation of the other country, etc. Unorganised and unchecked information may lead

to several problems, from the lack of knowledge about basic regulation, through decision-making based on out-of-date regulations, to the lack of confidence caused by fake news, which is in general a top hindering factor. Furthermore, opportunities that the neighbouring country has to offer are often misjudged by word-of-mouth information; and unrealistic expectations are likely to get in the way of cooperation.

In addition, information requirements may differ sector by sector and region by region. This broad set of problems could be solved by a complex (border) information portal, to be developed with particular attention to the duplication, parallelism and fragmentation of information.

### Best practices

The above problems have been identified both at national and European level, and even though their resolution is still at an early stage, there have been several initiatives all across Europe that are worth mentioning.

The first set of best practices are thematic solutions, which target a specific area in a given region. These include the Dutch-Belgian-German initiative of promoting cross-border employment and commuting to work, with the development of an information service on regional industrial premises, or the harmonisation of statistics on the Swedish-Danish border area.

The other group of best practices take a more general approach to provide information, and aim at operating portals that provide comprehensive information on a given border section in multiple languages. We have seen such initiatives concerning the Dutch and Belgian, French and Swiss, French and Spanish, Irish and Northern Irish, as well as the Hungarian and Romanian border area.

Furthermore, there are certain organisations like the MOT (Mission Opérationnelle Transfrontalière) or the European Union itself that provide general information instead of focusing on a particular border section or policy area. These solutions prove to be the most useful as they take into account the possible fragmentation and parallelism of information. It needs to be mentioned that the information they provide on certain regions and areas is often incomplete or rudimentary.



Portal types	Portal examples
<b>Regional and local portals providing thematic information</b>	A bilingual information portal promoting the mobility of workers along the French-German-Swiss border. <a href="https://www.infobest.eu/de/">https://www.infobest.eu/de/</a>
	A multifunctional portal providing business information on the Meuse–Rhine Euroregion in four languages. <a href="http://www.the-locator.eu/72EMR_Frontend/home.jsf?mode=home">http://www.the-locator.eu/72EMR_Frontend/home.jsf?mode=home</a>
<b>Regional and local portals providing comprehensive information</b>	Hello Norden information service operated by the Nordic Council. <a href="http://www.norden.org/en/hello-norden">http://www.norden.org/en/hello-norden</a>
	The information portal of the Border People project, with the aim to promote cross-border mobility between Ireland and Northern Ireland. <a href="http://borderpeople.info/">http://borderpeople.info/</a>
<b>Comprehensive information portals</b>	Information on cross-border relations and cooperation, operated by Mission Opérationnelle Transfrontalière (MOT), in French and English languages. <a href="http://www.espaces-transfrontaliers.org/en/resources/topics-of-cooperation/">http://www.espaces-transfrontaliers.org/en/resources/topics-of-cooperation/</a>
	Your Europe is a comprehensive information portal operated by the competent bodies of the EU, available in all official languages. <a href="http://europa.eu/youreurope/citizens/index_hu.htm">http://europa.eu/youreurope/citizens/index_hu.htm</a>

*Portal types and examples*

## Recommendations

In the following, we make recommendations for the further improvement of Your Europe<sup>20</sup>, the most comprehensive cross-border EU portal with the best publicity and the largest base of resources. The portal, already in operation, has the necessary financial and human resources as well as policy background to provide the largest number of EU citizens with comprehensive information. Moreover, its organisational structure enables the smooth involvement of lower-level governmental agencies (e.g. national offices). Finally, the availability of information in all official EU languages is another important advantage.

Still, the current system has been suffering from several shortcomings, which our recommendations are going to address.

Even though all important areas (e.g. travelling, education and youth, work and pension, health, vehicles, family, mobility, consumer issues) are covered, the completeness of information varies widely between areas and regions as well. There is a call for further development, which would require the allocation of additional national and EU sources, and for enhanced promotion activity, so that information is accessible to a wider range of citizens and relevant institutions. Furthermore, the portal would play an important role in the integration of current fragmented initiatives and in the collection and incorporation of professional inputs from regional sources, including civil societies.

But as different border sections have different information needs, there is a pressing need to provide region-specific information. National government measures could provide the most adequate framework to support such regional systems, but their integration in the structure and functioning of the central EU portal is also highly recommended, with a content in at least three languages (English plus the two official languages). These portals may also include a job search and a report module, so that citizens submit obstacles they encounter in the course of cross-border interactions. The latter bears particular importance for information gathering by the Legal Accessibility Council, whose establishment we proposed as part of the previous horizontal recommendation.

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<sup>20</sup> Your Europe. URL: [http://europa.eu/youreurope/citizens/index\\_hu.htm](http://europa.eu/youreurope/citizens/index_hu.htm) (Last accessed on 14 September 2016)

## 4. Summary

### 4.1 The results of the project

The project on legal accessibility is the first initiative in Hungary which has tried to unfold legal-administrative barriers the actors involved in cross-border cooperation are facing with a comprehensive, intersectoral approach and to seek for answers how to eliminate these barriers.

From a formal point of view, the project achieved maximum success: we fulfilled all the indicators undertaken in our contract; the following table gives an overview on this:

Indicator	Target	Fulfillment	Unit
Number of implemented stakeholder workshops	9	9+1	pieces
Number of participants at stakeholder workshops	90	81+23	people
Number of prepared summary reports	1	1	pieces
Compilation of best practices	1	1	piece
Number of interviews	24	24 + 30 + 14	pieces
Number of sectors affected by interviews	8	8 + 4	pieces
Number of prepared summary reports	1	1	pieces
Legal inventory	1	1	pieces
Compilation of recommendations	1	1	pieces
Final report	1	1	pieces
Final report – English version	1	1	pieces

At the same time, it must be admitted that in terms of substance we expected more from the project at the beginning. We thought that the local stakeholders would confront us with a host of border obstacles and we would even find solutions for the major part of them, based on the existing western European good examples. Finally, much fewer barriers were mentioned at the workshops than we had expected and it turned out later that a significant part of these were not real obstacles. In other cases, the modification of the principles of the total policy background would be necessary in order to bring about essential changes. Thus, during its realisation, the focus of the project has been slightly modified.

While at the beginning we envisaged to draft a kind of compilation of legal recommendations, at the end of the day this document has gained a strong policy accent.

Nevertheless, the current compilation of obstacles should not be considered as irrelevant, since we managed to draw the attention and (we hope) to find solution to numerous problems which make the lives of the people living in border areas difficult. We are convinced that the project was implemented successfully with results to be communicated even at EU level which opens the possibility for the continuation together with the neighbouring countries.

As far as the professional results of the project are concerned, one can state that the documents drafted indicate the starting point of a procedure; they create the opportunity for the systematic monitoring and analysis of the obstacles as well as to the institutionalised development of solutions.

Hereby, we would like to thank the Ministry of Justice of Hungary for the support making possible the implementation of this project.

## **4.2 Comparing the results of the project with European trends**

The European Union undergoes, at present, maybe one of the most serious crises of its history which is fundamentally linked to the question of free cross-border mobility. It is of paramount importance what solutions will be worked out by the end of this crisis and whether these solutions hinder or facilitate free movement.

In parallel with the crisis, several EU policy debates are under way which are also in close relationship with the subject of our project. Our association submitted the application which can be considered as an antecedent of this project to the call of the DG Justice in February 2015. The objective of the proposal was to work out a comprehensive analysis within the central European region unfolding legal-administrative barriers and formulating recommendations based on western European good practices. The partnership involved several research institutes from the neighbouring countries, as well as, the ISIG from Gorizia and the MOT from Paris. Since our application was not successful, we approached the Ministry of Justice of Hungary with a similar proposal because the legal accessibility issue became (maybe not unexpectedly) a hot topic of the European discourse.

On the one hand, a project called *Cross-border Review* launched by Commissioner Corina Crețu attracted the attention to the significance of tackling legal and administrative problems. The project was started in the autumn of 2015. Initially, contracted experts conducted an on-line survey by which they requested the local stakeholders' opinion on the obstacles. More than 600 responses were received from all over Europe (12 from Hungary). Based on these responses and the inputs gained at the 11 counsellors' seminars as well as from the reactions of the participants of the expert group set-up also in the autumn, the experts started to compile the comprehensive study built on case study experiences. Our association delegated an expert to the expert group and we drafted a contributing document focusing on the analysis of territorial data. At the same time, during the implementation of the *Cross-border Review* project, we also obtained and accumulated knowledge on certain issues which supported the realisation of the Hungarian *Legal accessibility* project.

When comparing the two projects, it is worth mentioning that in the case of the EU project eight sectors have been identified at the very beginning in the respect of which the analysis of the obstacles can be relevant: industry, labour market, health, transport, ICT, environment, climate change and spatial planning. At the second expert workshop held in January, 2016, the experts selected five of these eight topics that the contracted consultants concentrated on.

At the starting phase of our project we did not follow similar preconceptions: we were interested in everything what can be a problem or obstacle for local actors. On the one hand, this approach led to the realisation of the fact that we faced numerous obstacles which were irrelevant for other countries; and, on the other, the barriers did not occur in line with a clear systematic principle or an internal logic but in an ad hoc way. It may be the reason why several „reports of obstacle” proved to be irrelevant after the interviews and the legal analysis. Regardless of this, **a few problems can attract the attention also at EU level**: in some of these cases we even made a proposal for their solution.

These problems are the following:

- to launch an EU student card,
- to create an EU level documentation platform of illnesses,
- to issue EU level permissions for ambulance cars,
- to create EU rules on cross-border short supply chains,
- to draft a provision supporting cross-border horse riding tourism,
- to develop an EU level solution for the abolishment of duties of duty-free products imported from third countries,
- to further develop the KEEP database to obtain real-time data.

Apart from the *Cross-border Review* coordinated by the DG Regio, it is worth mentioning the progress of the new legal solution initiated by the Luxembourg presidency, in 2015. The proposal of the Luxembourg presidency aims at the voluntary based introduction of a new legal tool (European Cross-Border Convention: ECBC) which would create a territorial exception with a view to resolving a sectoral problem of a given border region. For the sake of ensuring cross-border service provision, the tool would establish a legal framework more or less independent from the legislations of the two countries with a territorial limitation in a provisional way; which would make it possible to give life to models exceeding the obstacles generated by the national provisions. The Cerdanya hospital is considered as a such exceptional example but also in the case of a cross-border tramway numerous technical, financial and administrative rules should be taken into account which prevent the initiators from the construction of the tramway line. Although both the intention and the need are given and the economic operation of the tramway could be guaranteed, the different legal environment of the two neighbouring countries should be modified at so many points and furthermore at general, national level that finally the project will not be put in place. The ECBC would make it possible to launch such exceptional legal solutions which would reflect to nothing but the particular problem within the given border region. Our association has, right from the beginning, taken part in the activities of the working group preparing the ECBC.

In recent years, the French Mission Opérationnelle Transfrontalière (MOT) has been drawing the attention, at numerous professional events, to the shortcomings of territorial statistics hindering cross-border cooperation and developments. Eurostat gathers data at NUTS III. (in some cases at NUTS II.) level only which are irrelevant from the point of view of direct cross-border interventions (affecting mainly local and regional stakeholders). Our association has joined this consultative process by organising a seminar in September, 2014. It is expected that the European Commission will initiate the cooperation of the national statistical institutions (NSIs) with a view to resolve this problem.

It is not only the European Union which is working with the problem of barriers. In 2014, the European Council contracted an NGO called Institute of International Sociology of Gorizia (ISIG) to unfold the most frequent cross-border legal-administrative obstacles in Europe. Its intention was to find the best practices delivering solution to these obstacles and to make all this information available through a portal updated permanently.

The portal was opened in 2015 and its database is permanently expanding, thanks to the increasing number of its end-users. The EDEN portal of ISIG meant a generous help during the realisation of the current project. Apart from this, the professional documents of the MOT and the AEBR (Association of European Border Regions) offered help to us too. AEBR supported the implementation also with professional consultancy as a project partner.

Regarding the responses on the obstacles, the way of overcoming them can be different case by case. The legal harmonisation process of the European Union yields sometimes surprising results; at the same time, the Community has achieved remarkable success from the point of view of the mitigation of the obstacles against the free movement of persons, goods, services and capital. One of the main lessons learnt from this project was that in several cases, the community *acquis* are already in place but there are problems with their application.

At the same time, sometimes the application of a regional solution implying bilateral agreements is more rational. It can give life even to bilateral institutionalised cooperation structures. The *Legal accessibility* project offers examples for both models. Our aim was to launch the process within which the state administration limiting its focus on nation state frames by nature recognises cross-border reality as an issue to handle and its problems to tackle and approaches it with due openness. Since, as a matter of fact, when we seek for either EU level or bilateral solutions, we can be successful only with the positive attitude of the state level authorities.