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**Proposal on the V4 Mobility Council**  
**as intergovernmental structure for border obstacle management**  
 elaborated within the framework of the project 'Legal accessibility among the V4  
 countries' funded by the Visegrad Fund

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## Executive summary

The present document has been drafted within the framework of the project entitled „*Legal accessibility among the V4 countries*“ supported by the International Visegrad Fund. The main objective of the project is to lay the basis for a permanent mechanism ensuring the elimination of legal and administrative obstacles hindering cross-border mobility of the V4 citizens. The partners designed the mechanism after having visited the Secretariat of the Nordic Council of Ministers in Copenhagen and studied the Nordic model of obstacle management. The lessons learnt from the latter model have been summarised in a separate study.

In this study, the partners aimed at examining the possibility of a V4 level mechanism similar to the Nordic solution adapted to the Visegrad group. The legislative processes at EU level have given a special actuality to the work since on 29 May 2018, the European Commission delivered the draft regulations of the new Cohesion Policy including the Regulation on a *mechanism to resolve legal and administrative obstacles in a cross-border context*. The objectives of the so-called ECBM Regulation (ECBM = European Cross-Border Mechanism) can be considered revolutionary since it enables local and regional stakeholders to apply the legal provisions of the neighbouring country with a limited territorial scope. The Member States can decide on launching the ECBM model or adapting own solution. After its approval, the application of the Regulation will be mandatory to every member state including the set-up of a cross-border coordination point (CBCP). Consequently, the Visegrad countries will be obliged to apply either ECBM or another mechanism.

In this study the partners analysed the ECBM tool and the approach of the four governments to it. As a consequence, it can be summarised that notwithstanding the Hungarian position, the V4 countries accepted the draft proposal with a certain level of reluctance. It may foresee the preference of the application of own solutions. The project partners proposed a joint solution for the 4 countries.

When drafting the proposal on a mechanism applicable for the Visegrad group, the partners analysed in details the legislative systems, the legislative processes and the competencies of the different level actors in each V4 country.

In order to get a comprehensive picture on the national public administration systems and legislation processes project partners analysed the relevant literature and legal documents, made interviews with the competent office-holders on national and V4 level and involved an external expert in the work.

As a result, a country benchmark was elaborated unfolding a quite high level of uniformity in terms of the political and governmental structure as well as the legislative processes of the V4 countries. It means that the legislative and executive powers are separated, the Parliaments are mandated by the competencies of law-making while also the Ministries have the right to draft legally binding provisions (e.g. decrees).

In each country, the territorial administrative system includes regional and local municipalities which have different competencies: at regional level, the Polish and Slovak regions have larger while the Czech and Hungarian ones narrower competencies; at local level, the picture is much more homogeneous. In terms of cross-border cooperation, the municipalities have the rights to start cooperating but, of course, they have no rights to apply the laws of the neighbouring country on their own territories that sometimes makes the cooperation difficult and complicated.

The country benchmark set the administrative and legislative frameworks and limits of the potential application of the joint mechanism.

The next parts of the study concentrate on the Visegrad cooperation as a framework. By these chapters, the partners aimed at identifying potential solutions which can be in harmony with the already existing organs and institutions of the Visegrad Group. While in the former parts, the objective was to unfold the frameworks of the four countries, in these chapters the partners wanted to ensure that the proposed solution will be in harmony with the existing forms and procedures, as well as, with the level of integration of the Visegrad group.

Obviously, the integration of the four Central European countries is exemplary but is very far from the level of integration of both the Benelux Union and the Nordic Council. The potential joint mechanism has to respect this maturity level.

In the chapter containing the proposal, the partners identified three options. These options differ from each other in terms of the level of institutionalisation.

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The first model targets consultative cooperation where no new organs are established. Taking into account that every V4 country has to set up their own CBCP, the model contains a proposal on coordination activities between these contact points and on a platform registering the obstacles.

The second solution is more advanced: the planned V4 Mobility Forum would be built upon the existing and operating structures and models when creating a new organ. The permanent members of the Forum would be the 4 CBCPs, the representative of the actual V4 Presidency and the representative of the Secretariat (ideally created within one of the already existing V4 institution) which would be developed further in order to carry out the tasks related to the operation of the Mobility Forum. Further representatives of the ministries concerned would be invited to the meetings as non-permanent members.

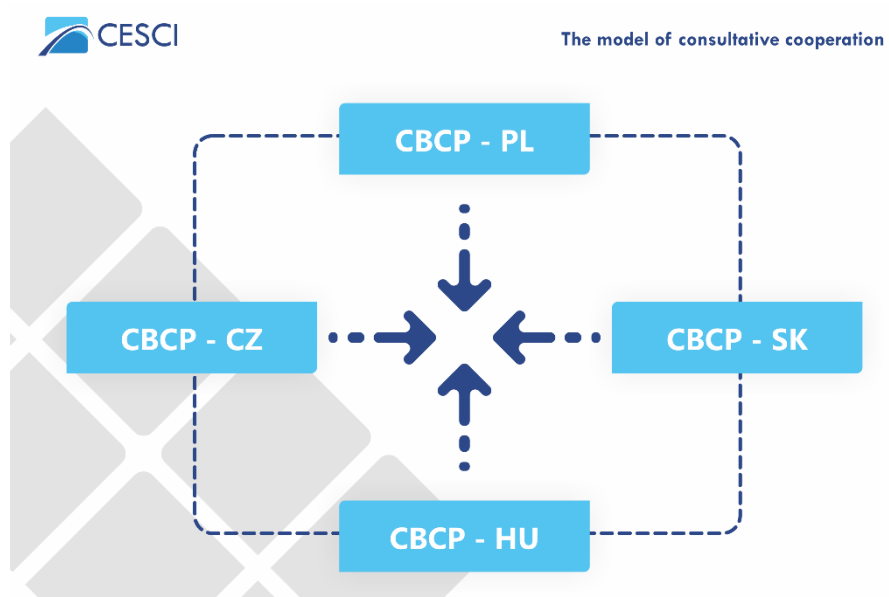
The most complicated structure would be developed within the third model where – following the example of the Nordic cooperation – further organs and bodies would also be set up, like the Parliamentary Assembly, the Council of Ministers and an independent Secretariat. In this model, the Mobility Council would involve the 4 CBCPs, one member of the Council of Ministers as well as the Secretary General of the V4 cooperation. This last solution is very similar to the Nordic one which served as an example for the design of the coordination and communication mechanisms. In line with these mechanisms, the Mobility Forum (model 2) or Mobility Council (model 3) would select the most urgent problems from a list drafted by the Secretariat based on the information gathered from local actors. The member states would commit to eliminate the selected obstacles through their own national legislative systems. The Mobility Forum or Mobility Council would monitor the procedures. The obstacles would be registered in an on-line database which could be developed based on the existing Polish portal.

The three models have been compared through a 9-factor benchmark. As a result, the first model proved to be the most advantageous option, slightly overtaking the second one while the complexity of the third model ranked this solution as the less favourable – regardless of that this last one would strengthen the internal cohesion of the Visegrad group the most. At the same time, the three model can also be considered as three stages of an evaluation starting with the loosest form and ending with the most advanced model.

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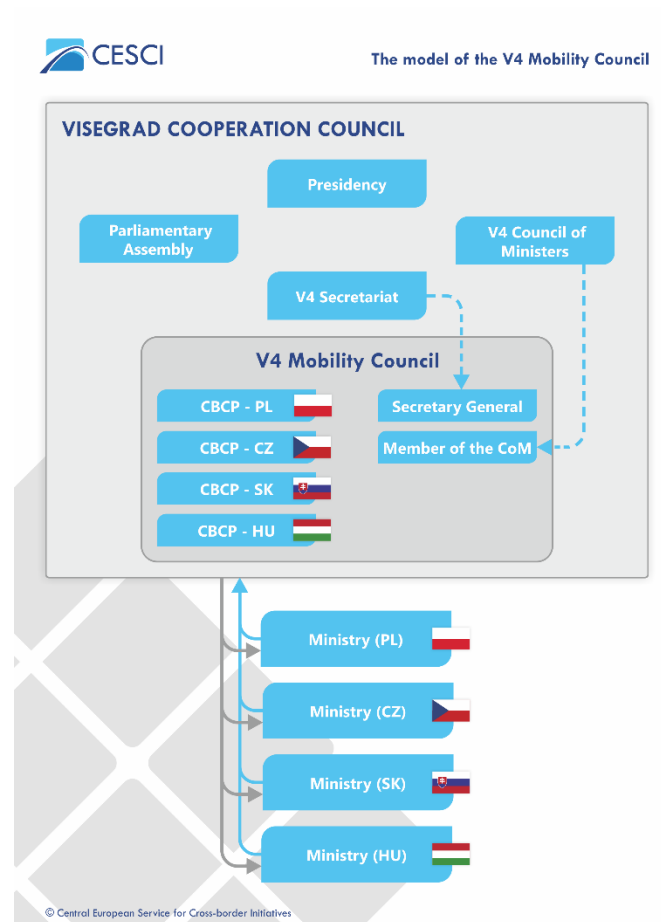
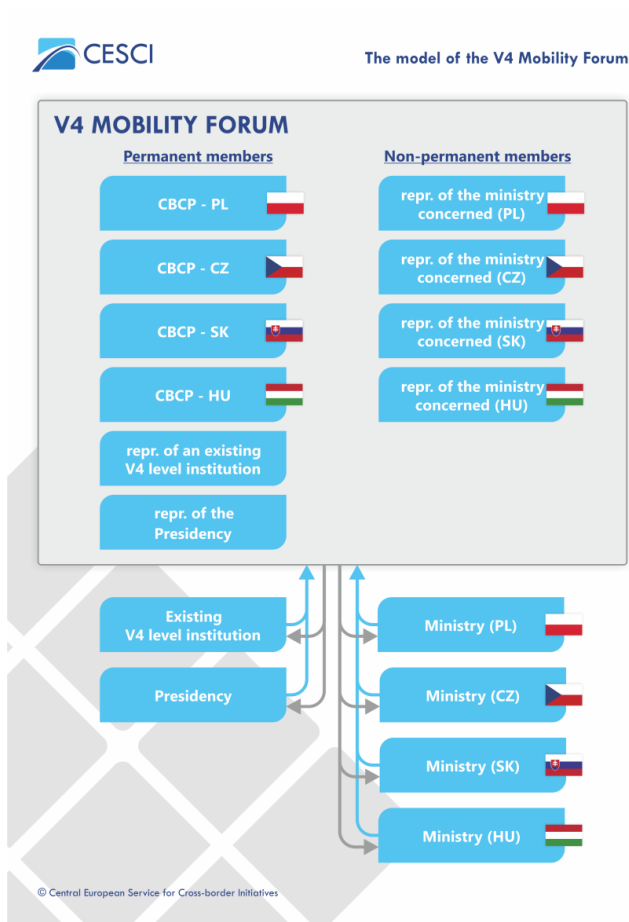
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Model 1



Model 2

Model 3



	<b>Consultative model</b>	<b>Mobility Forum</b>	<b>Mobility Council</b>
<i>Questions of principle</i>			
integrating force	1	3	4
maturity test	4	3	1
legitimacy	3	3	1
capacity	1	3	4
forcing power	1	3	4
<i>Set-up burdens</i>			
time factor	4	3	1
simplicity	4	3	1
<i>Operational factors</i>			
operability	4	2	1
financial ease	4	2	1
<b>AVERAGE</b>	<b>2,89</b>	<b>2,78</b>	<b>2</b>

Regarding the funding opportunities, ad-hoc EU and V4 project funds can be used for the preparation and the establishment of the institutional and technical background of the legal accessibility initiative, however the operation and maintenance of these bodies and structures are the responsibility of the Visegrad Group together through joint fund(s) and the member countries through domestic funding.

The proposal drafted in this study will be discussed with the representatives of the four governments and will be developed further in the Handbook (guidance) during the third phase of the project implementation.

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## **1. Introduction of the context of the study**

### **1.1 The main objectives of the current project**

Since its establishment in 1991 and mainly during the last few years, V4 became a regional brand known worldwide. At the same time, regardless of the efforts made by the International Visegrad Fund, the cooperation hardly influences the population's daily life: it is not simpler to work, to live, to study, to do business, to get married, etc. in other V4 countries.

During recent years, several initiatives have been taken in Europe with a view to diminishing or even eliminating the legal-administrative barriers still existing among the European countries. The most advanced regional cooperation can be detected at the Benelux cooperation and the Nordic Council. At the same time, at Visegrad Group no similar initiatives exist, while internal mobility and cohesion should be strengthened.

The Nordic states set up the Freedom of Movement Council in 2014, which every year identifies several legal obstacles hampering internal cohesion and selects some of them to be eliminated by the member countries, systematically. This model does not only strengthen regional cohesion by easing the regional mobility of workers, students, entrepreneurs and goods, but in parallel, provides concrete content for regional identity and regional brand building.

Similarly, the Benelux Convention on Transfrontier and Interterritorial Cooperation was ratified in 2014 by the members of the Benelux Union, namely Belgium, the Netherlands and Luxembourg. The new Convention utilizes the advantages of the former treaty dated back to 1986 and also the advantages of the EGTC Regulation No 1082/2006, thus providing framework for more progressive and innovative cross-border cooperation. Fundamental aim of the Convention and the participating subjects is to strengthen and deepen structural cooperation on each side of borders, hence supporting the desired solutions, pilot projects and transfer of the existing skills. The convention commission, provided for in the convention, supports as a platform for application of the legal instruments that allows for the implementation of cross-border cooperation. The Benelux Union has 5 permanent institutions, the Committee of the Ministers (where the decisions on legal harmonisation are made), the Council, the Secretariat General (which is responsible for the functioning of the cooperation and facilitating obstacle management), the Interparliamentary Consultative Council and the

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Court of Justice. The Union has an on-line information portal<sup>1</sup> (in French and Dutch) registering all legal instruments and documents related to obstacle management.

Similarly to the Benelux and Nordic cooperation, the project partners aim at laying the basis for permanent intergovernmental mechanisms enabling V4 governments to detect and eliminate those legal-administrative barriers hampering or making difficult to work, to study, to do business, to get married, to purchase goods, etc. in either countries of the V4 cooperation.

As the second step of the project, the present proposal aims to analyse the existing government structures of the V4 countries and to elaborate the methodological and structural basis for the V4 intergovernmental structure responsible for legal accessibility within the region. To this end, in course of a desk research project partners and experts analysed the main legal documents of the four member countries, in addition interviews with the concerned members of the governments and representatives of the V4 cooperation were made. In order to get a more comprehensive picture, legal experts from the Czechia, Hungary and Slovakia were involved.

## 1.2 The European context: the ECBM Regulation

### 1.2.1 On the background of the ECBM instrument

During the most recent years, more and more attention has been paid for still persisting legal and administrative obstacles that people face in their cross-border activities within the European Union. The first comprehensive action in the field was taken by the Council of Europe (CoE). In 2014, upon the request of the Directorate of Democratic Governance<sup>2</sup>, the Italian Istituto di Sociologia Internazionale di Gorizia (ISIG)<sup>3</sup> issued a comprehensive study and a handbook<sup>4</sup>. Later on, ISIG has developed the so-called e-DEN portal<sup>5</sup> with the aim of collecting and sharing legal problems and options for solution from all over Europe.

In August 2015, Corina Crețu, the European Union's Commissioner for Regional Policy launched the '*Cross-Border Review*' project<sup>6</sup> to identify legal and administrative obstacles hindering the advancement of the Single Market and the enforcement of equal rights of EU citizens.

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1 [http://www.benelux.int/fr/volet-juridique?referentie=&tag=0&type=1&domein=0&from=&to=&search=&display=9&ccm\\_paging\\_p=1](http://www.benelux.int/fr/volet-juridique?referentie=&tag=0&type=1&domein=0&from=&to=&search=&display=9&ccm_paging_p=1)

2 <https://www.coe.int/en/web/democracy/about-dg-democracy>

3 <http://isig.it/en/>

4 <http://isig.it/en/manual-on-removing-obstacles-to-cbc-2014/>

5 <http://cbc.isig.it/>

6 [http://ec.europa.eu/regional\\_policy/en/policy/cooperation/european-territorial/cross-border/review/](http://ec.europa.eu/regional_policy/en/policy/cooperation/european-territorial/cross-border/review/)

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The project itself lasted for a year and a half, and

- ❖ on the one hand, it included an expert study (*'Easing legal and administrative obstacles in EU border regions'*)<sup>7</sup> which summarized and analysed the existing barriers as a result of a comprehensive review of European internal landborders;
- ❖ it launched a database (inventory)<sup>8</sup> where information about good practices on obstacles and their elimination is available;
- ❖ it included a wide-range consultation process (on-line questionnaire<sup>9</sup>, 11 consultancy workshops, meetings of an expert working group), which enabled the inclusion of the experiences of local actors with the aim to prepare a common EU report.

As a result of the project, completed at the beginning of 2017, the Commission issued a Communication that was presented at an international conference on 20<sup>th</sup> September 2017, in Brussels. The Communication *'Boosting Growth and Cohesion in EU Border Regions'*<sup>10</sup> underlines the significance of overcoming cross-border obstacles by drawing the attention to the fact that these regions cover about 40% of the territory of the EU; nearly one third of the EU population lives in these regions; and they generate approximately one third of the EU's GDP. Some 1.3 million EU workers commute every day across the borders. Researchers of the Technical University of Milan detected that the elimination of the existing administrative barriers would increase the GDP of the EU by 8%<sup>11</sup>.

The EU Communication identified 10 concrete actions with the aim to eliminate barriers. As further results, DG REGIO

- ❖ established the Border Focal Point which functions as a coordinator and as a forum for sharing of knowledge related to legal accessibility of the borders;
- ❖ launched the on-line platform Boosting EU Border Regions<sup>12</sup> with very similar purposes that e-DEN portal has: to gather the cross-border community and share the experiences and best practices with border obstacles;
- ❖ and started consultations with different DGs at the European Commission on the way of implementing the proposed 10 actions.

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7 [http://ec.europa.eu/regional\\_policy/en/information/publications/studies/2017/easing-legal-and-administrative-obstacles-in-eu-border-regions](http://ec.europa.eu/regional_policy/en/information/publications/studies/2017/easing-legal-and-administrative-obstacles-in-eu-border-regions)

8 [https://ec.europa.eu/regional\\_policy/sources/policy/cooperation/european-territorial/cross-border/factsheets/list.cfm](https://ec.europa.eu/regional_policy/sources/policy/cooperation/european-territorial/cross-border/factsheets/list.cfm)

9 [http://ec.europa.eu/regional\\_policy/en/newsroom/consultations/overcoming-obstacles-border-regions/](http://ec.europa.eu/regional_policy/en/newsroom/consultations/overcoming-obstacles-border-regions/)

10 [http://ec.europa.eu/regional\\_policy/en/information/publications/communications/2017/boosting-growth-and-cohesion-in-eu-border-regions](http://ec.europa.eu/regional_policy/en/information/publications/communications/2017/boosting-growth-and-cohesion-in-eu-border-regions)

11 Camagni et al. (2017): Quantification of the effects of legal and administrative border obstacles in land border regions (EC, Brussels) <https://publications.europa.eu/en/publication-detail/-/publication/151ca695-b92f-11e7-a7f8-01aa75ed71a1/language-en/format-PDF>

12 <https://ec.europa.eu/futurium/en/node/2795>

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In parallel with the initiative of the Commission, in the second half of 2015, the Luxembourg Presidency (of the Council) proposed to launch a new legal instrument, the so-called 'European Cross-Border Convention (ECBC)'. With the technical assistance of the French Mission Opérationnelle Transfrontalière (MOT), the Luxembourg Presidency has set up a working group further elaborating the proposal. The working group held its first meeting on July 5<sup>th</sup> 2016 in Vienna. Its members are national authorities of the EU Member States and one Partner State, the Committee of the Regions, the MOT, the Association of European Border Regions (AEBR) and CESCO. Up to 28<sup>th</sup> June 2017, the working group held 8 meetings, drafted the proposal on the new tool and delivered it to the European Commission<sup>13</sup>. The proposal gained a very positive reaction at the EU institutions so that the Commission submitted a proposal on a Cohesion Policy Regulation on the issue.

### 1.2.2 The ECBM Regulation

On 29<sup>th</sup> May 2018, the Commission published the draft Cohesion Policy regulations<sup>14</sup> connected to the next budgetary period. Based on the proposal of the Luxembourg Presidency on ECBC, the Cohesion Policy package contains a new tool facilitating cross-border integration and legal harmonisation, i.e. the European Cross-Border Mechanism, the ECBM (*Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on a mechanism to resolve legal and administrative obstacles in a cross-border context. COM/2018/373 final - 2018/0198 (COD)*)<sup>15</sup>.

The rationale behind the ECBM tool is based on frequent examples of unique border obstacles the resolution of which should not necessitate the signing of an intergovernmental bilateral agreement since the problem does not affect the whole border. In this respect, the example mentioned the most is the case of the new tramway line between Strasbourg (FR) and Kehl (DE). Due to the different technical standards, driving rules and tariff systems of the two neighbouring countries, the idea of connecting the two border towns was hindered for years. The proposed new solution would enable the local stakeholders to overcome this type of difficulties by adapting the laws being in effect on one side of the border to the whole cross-border project. The model drafted by the working group set by Luxembourg Presidency included a mechanism of applying the European Cross-Border Convention (ECBC) which, based on the approval of the national authorities affected, would allow the local actors to

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<sup>13</sup> For further information on the initiative, please refer to <http://www.espaces-transfrontaliers.org/en/european-activities/working-group-on-innovative-solutions-to-cross-border-obstacles/>

<sup>14</sup> [https://ec.europa.eu/commission/publications/regional-development-and-cohesion\\_en](https://ec.europa.eu/commission/publications/regional-development-and-cohesion_en)

<sup>15</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2018%3A373%3AFIN>

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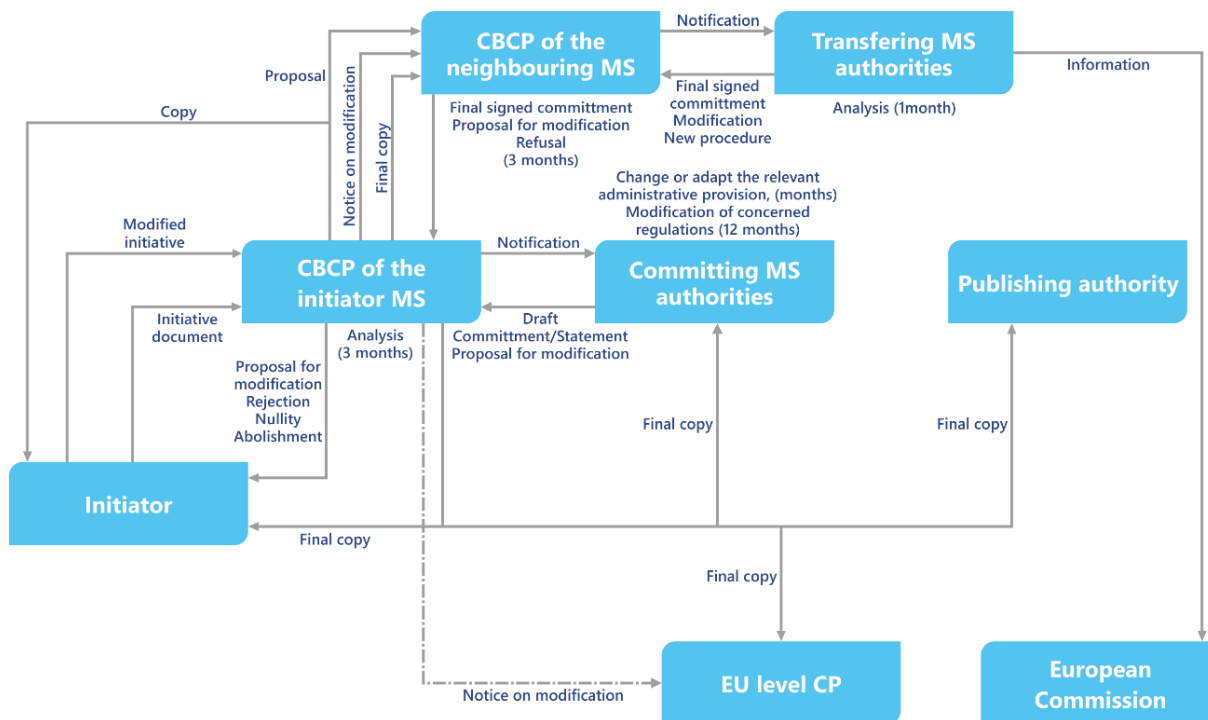
apply the rules of the neighbouring country with a clear territorial demarcation defined by the project aims. This way, the individual investment could be realised along by joint standards.

The draft EU Regulation contains modifications compared to the previous proposal. According to the Regulation, in cases similar to the tram line, the national authorities can apply two different solutions:

- ❖ the European Cross-Border Commitment (ECBC) when the national legislations are not modified but the rules of the neighbouring state(s) are allowed to be applied for the sake of the cross-border development / project (self-executing derogation of the national rules);
- ❖ the European Cross-Border Statement (ECBS) by which the national authorities undertake the future amendment of the existing national legislations in order to facilitate the implementation of a derogation.

In both cases, the derogation is initiated by the local actors and the legal background of the initiative is to be analysed first. The mechanism prescribes a quite complicated and multi-layered procedure by the end of which, the application of the rules of the neighbouring country may start.

Figure 1: The scheme of the ECBM



The procedure is presented in the Regulation in details along by the following stages:

- ❖ preparation and submission of the initiative document (Article 8 and 9)
- ❖ preliminary analysis of the initiative document by the committing Member State (Article 10)
- ❖ preliminary analysis of the initiative document by the transferring Member State (Article 11)
- ❖ finalisation of the initiative document (Article 12)
- ❖ preparation of the draft Commitment or Statement (Article 13 and 14)
- ❖ transmission of the draft Commitment or draft Statement to the competent Cross-border Coordination Point of the committing Member State (Article 15)
- ❖ concluding and signing of the Commitment or signing of the Statement (Article 16 and 17).

With a view to enabling the national authorities to issue ECBC or ECBS, the Member States opting for the ECBM solution are invited to identify a so-called Cross-border Coordination Point (CBCP) (or several Cross-border Coordination Points) as the key actor of the whole process. The communication between the CBCPs makes possible to conclude a joint mechanism (*Article 5*).

The Regulation sets mandatory rules for applying either the ECBM or other (existing) mechanism in order to eliminate the obstacles hindering the realisation of cross-border projects (*Article 4*):

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*„(1) Member State shall either opt for the Mechanism or opt for existing ways to resolve legal obstacles hampering the implementation of a joint project in cross-border regions on a specific border with one or more neighbouring Member States.“*

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Every Member State is obliged to inform the Commission on the application of the ECBM or another (existing) solution, as well as, on the designation of the CBCP. By incorporating the option of selection, the Commission reflects the fact and results of already existing models like those applied by the Benelux Union or the Nordic Council. In these well-advanced cases, there is no need for adapting ECBC or ECBS: they can keep on applying the models developed previously.

To sum up, according to the draft Regulation, **Visegrad countries will also be obliged either to adapt the ECBM model or to apply other mechanism** by which the cross-border obstacles can be eliminated and cross-border mobility can be facilitated.

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At the moment of the drafting of this study, the draft Regulation is subject of EU-wide consultation and it caused lively debate and criticism.

It is an obvious advantage of the ECBM that **it creates favourable conditions for long-term strategic developments** across the border thus enhancing cross-border cohesion. The set-up of the coordination points **creates the opportunity of permanent consultation** targeting legal harmonisation which is an existing practice at the Nordic Council and the Benelux Union but still missing in other countries of the EU. Further advantage is that by the new tool, **local stakeholders will be enabled to initiate joint actions** across the borders in a tailor-made manner, from bottom-up. Consequently, the proposal enhances **local democracy, subsidiarity and the capacities** of the local stakeholders. Finally, theoretically the mechanism should simplify the procedures of legal accessibility: instead of long-standing negotiations concluding in comprehensive bilateral agreements covering the relationships of two states, the local, **subregional problems could be tackled by a simplified process.**

The main critical remarks considering the new tool coming from different institutions (e.g. the European Economic and Social Committee, the Working Party on Structural Measures, REGI of the European Parliament) and the national authorities address among others

- ❖ the voluntary nature of the tool (either it should be further enhanced with the opportunity of creating a new mechanism of any form or it should be made obligatory in order to avoid "further fragmentation of legal practice"<sup>16</sup>);
- ❖ the status of the CBCP (it should be obligatory for every Member State regardless of the selected mechanism);
- ❖ the complicated structure of the mechanism;
- ❖ the necessary communication ("The implementation of the regulation should be accompanied by a clear and practical information campaign to facilitate application for stakeholders.")<sup>17</sup>;
- ❖ the territorial scope of the Regulation (NUTS II regions are not eligible).<sup>18</sup>

The final results of the debate cannot be forecasted but some topics seem to be very probable to be adapted, e.g. the set-up of CBCPs and the voluntary application of the ECBM tool or another solution per internal EU borders.

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<sup>16</sup> See the Opinion of the European Economic and Social Committee on Proposal for a Regulation of the European Parliament and of the Council on a mechanism to resolve legal and administrative obstacles in a cross-border context [COM(2018) 373 final – 2018/0198 (COD)]. <https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/regulation-cross-border-mechanism-2021-2027>

<sup>17</sup> Draft opinion. Cross-Border Mechanism. COTER-VI/048. <https://cor.europa.eu/EN/our-work/Pages/OpinionTimeline.aspx?opId=CDR-3596-2018>

<sup>18</sup> The whole legislative procedure can be tracked on the following link: <http://www.europarl.europa.eu/legislative-train/theme-new-boost-for-jobs-growth-and-investment/file-mff-mechanism-to-resolve-cross-border-obstacles>

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From the point of view of the current study, the V4 countries can follow three different paths:

- ❖ they can apply separately the ECBM model,
- ❖ they can develop own solution,
- ❖ they can develop a V4 level mechanism of obstacle management.

What seems to be very likely, they cannot avoid to implement one of these three options. In the current study we draft a proposal favouring the last option with a view to further enhancing the cooperation among the V4 countries – similarly to the Benelux Union and the Nordic Council.

### 1.2.3 The ECBM initiative and the V4 countries

#### **Czechia**

The Czechia has taken the neutral position towards the new mechanism, however, in the reasoning of the regulation for the Government members the moderately positive rhetoric prevails:

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*"In general, the Czech Republic supports the efforts to overcome administrative and legal obstacles, as these would help to implement some cross-border activities, but does not consider them to be national priority. The Government sees its main asset in involvement of the actors, who are often acting as initiators of overcoming concrete cross-border barriers and obstacles.*

*At present, administrative and legal barriers in cross-border cooperation with neighboring countries are overcome by the means of bilateral and multilateral treaties and other legal instruments in the Czech Republic. In the case of joint implementation of cross-border project, these comply with European and national legislation and program rules". (Czech Government 2018).*

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According to the text of Governmental position towards the Regulation, it mentions three areas in which it identifies the possible application of the Regulation.

- 1) The first cooperation area is **environmental protection** in protected natural areas and parks, which are located in border areas of the Czechia. Given the complex character of protecting these areas, the different legislation and institutional mismatch of neighbouring countries constitute significant problems which can be overcome by the means of joint protection plans and measures, which can be eased by the new Regulation.

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- 2) According to the Czech Government the proposed Regulation could be also useful in **health-care** and
- 3) in **crisis management** generally.

However, in its position paper the Czech Government accents the voluntary character of the mechanism and insists on keeping it so.

The Regulation shall be administered by the Ministry of Regional Development, by the unit responsible for the implementation of the EGTC tool in the Czechia. The ministry foresees that it will have to initiate the modification of the Act on Regional Development Support (2000/248 Coll.) in order to comply with the Regulation. The modification should make possible to settle "Cross-border Co-ordination Points".

However, the ministry considers very low real added value of the mechanism, due to the normal short life-time cycle/duration of cross-border projects. It also criticizes that

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*"In particular, the proposal deals with legal obstacles which are inseparably linked to the socio-economic contexts and standards of services of general economic interest or to the infrastructure being provided. However, these contexts are neglected. It is not clear how the differences between countries would be compensated systemically; if this were not the case, the applicability of the proposed regulation would in principle be limited to cooperation between States with similar standards. A similar problem has already been noted in the context of earlier efforts to extend cooperation within the European Groupings for Territorial Cooperation (EGTC)." (Ibid.)*

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The Czechs consider the proposal to be tailor-made to the needs of Benelux countries, France and Germany and less useful in other European contexts.

### **Hungary**

The Hungarian Government welcomes and urges the implementation of the ECBM Regulation since besides the EU Development Fund and the EGTC, the mechanism could be a further step toward strengthened territorial cohesion of the EU.

According to the Hungarian viewpoint stated by the Ministry of Foreign Affairs and Trade, in those member states where such mechanisms do not exist, the legal obstacles could hinder cross-border developments on a daily basis, and in most of the cases the bilateral agreements do not allow the local stakeholders to take fast and efficient actions for the sound implementation of a particular project.

As a consequence, the Hungarian Government considers the approval of the draft regulation important. However, it seems that its interpretation and added-value is not univocal to the

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concerned actors. Therefore there is a need for further information, dissemination and better involvement of the local stakeholders into the process.

Furthermore, the draft regulation proposes the same implementation procedure for both instruments, the commitment and the statement; but they intend to address different types of challenges. The proposed procedure seems appropriate in case of the ECBS, however for the ECBC a simpler, faster and a more flexible one would need.

### **Poland**

According to the official governmental stand towards the EU Regulation on a mechanism to resolve legal and administrative obstacles in a cross-border context from 29<sup>th</sup> June 2018<sup>19</sup>, a leading institution responsible for implementation of this regulation is going to be the Ministry for Investment and Development with supporting functions of Ministry of Finance, Ministry of Internal Affairs and Administration and Ministry of Foreign Affairs.

In the same document Polish government recognizes the need to facilitate cooperation in cross-border areas and acknowledges that there are obstacles to this cooperation. The Polish government is interested in supporting various initiatives and ideas for overcoming barriers in cross-border cooperation at the internal and external borders of the EU.

The government finds the legal solution proposed by the Commission worth supporting. However, the detailed solutions included in the draft regulation require a deep legal analysis in terms of compliance with national legislation, including the Constitution. Many legal uncertainties in relation to the domestic law are particularly caused by the first, "Commitments" solution. In the context of implementation of a specific cross-border project the "Commitment" allows a derogation of national legislation in favour of application of the law of the neighbouring state. Therefore, Polish government is reserved towards this solution.

The second solution, the "Statement" requires a traditional legislative path, raises less controversy and initial legal analysis confirms that it is applicable in Poland. The assessment of legal effects by the Polish government concludes that there is a necessity to pass a national law for the implementation of certain elements of the Regulation<sup>20</sup>.

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[https://www.funduszeuropejskie.gov.pl/media/61893/Stanowisko\\_Rzadu\\_RP\\_do\\_Mech\\_Elim\\_Barier\\_COM\\_2018\\_373\\_przyjete\\_KSE\\_29\\_06\\_2018.pdf](https://www.funduszeuropejskie.gov.pl/media/61893/Stanowisko_Rzadu_RP_do_Mech_Elim_Barier_COM_2018_373_przyjete_KSE_29_06_2018.pdf)

20 Ibidem

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## **Slovakia**

According to the EU law, pursuant to the Constitution of the Slovak Republic, the transposition of legally binding acts which require implementation shall be realized through a law or a regulation of the Government. The governmental regulations shall be issued only in law-defined areas, and they shall not be issued in the cases when a new state body should be created.

Due to this fact, the EU Regulation on a mechanism to resolve legal and administrative obstacles in a cross-border context shall be implemented by an Act. The preparation of the draft law by which the EU Regulation shall be implemented, falls under the competences of the particular Ministry, within the scope of which is the area regulated by the Regulation. The proposal for the Regulation is discussed within a special working group – the Structural Measures Working Party. This working group prepares and proposes legislation on the EU cohesion policy and manages the relevant EU funds.

Concerning the proposal, the special working group<sup>21</sup> issued a proper preliminary opinion, in which it stated that:

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*"The Slovak Republic welcomes the proposal for a new EU Regulation on a mechanism to resolve legal and administrative obstacles in a cross-border context. However, the Slovak Republic will pursue the full voluntary use of this mechanism by individual member states. Concerning the conclusion of a cross-border commitment, the Slovak Republic has doubts whether such a commitment will be legally enforceable. It is necessary to draw attention to the potential risk of "implementing" the draft Regulation in the first variant of the two options offered, in the form of a commitment that would provide for an exemption from the normal rules. This model raises questions regarding the respect of the limits contained in the Constitution of the Slovak Republic. The Slovak Republic is rather opposed to the application of the second option - the statement. The SR does not agree with the current definition of the "joint project", which may imply that it may apply to any project implemented in NUTS 3 territory. The Slovak Republic will therefore require the clarification of this definition in the sense that this is a project funded by the EU Structural Funds with the participation of two or more member states."*

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<sup>21</sup> SMWP – Structural Measures Working Party – it is the working group of the Council of the European Union, which deals with the preparation and the proposal of the legislation on the EU cohesion policy and manages the relevant EU funds.

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### **Summary**

As it can be seen, the V4 countries expose varied level of enthusiasm regarding the ECBM initiative. In principle, the four governments support the idea of easing cross-border mobility among the V4 states – in harmony with the EU legislation. However, regarding the proper solution, the opinions are diverse, and different level of reluctance appears state by state.

For instance **the Czech government** does not place overly high expectations for the impact of the proposed idea, since ECBM is considered as fit-for-purpose in more integrated western countries. Instead, the Czechs rather prefer interstate agreements seen to be the sufficient tool for solving most of the existing obstacles. However, at the level of the Czech-Polish interstate agreements can certainly be found space to adopt measures similar to those coming from Nordic countries, as there are 10 Czech-Polish sub-committees working on the intergovernmental level under the auspices of the bilateral working committee coordinated by the foreign ministries of both countries. The proposal on a V4 level mechanism can constitute meaningful cooperation content, which is at the present moment somewhat missing.

In the case of the Czechia, the Ministry of Foreign Affairs is the central actor in shaping foreign policy and thus could be a key actor in implementing the ECBM initiative as well. Apart from this, the Office of the Government and the Ministry of Education, Youth and Sports can also play a distinguished role since substantial number of cooperation initiatives come from this area. Finally, it also needs to be mentioned that the promotion of deepening the cooperation can also be achieved through the modification of the rules of the International Visegrad Fund by introducing "Nordic Freedom of movement Council"-like priority for a certain year or proposing a brand new sub-programme focusing on this cooperation field as well as through the use of INTERREG programmes beyond 2020. In such cases further actors to be considered are the Ministry of Labour and Social Affairs.

**In Hungary**, the government basically supports the implementation of the draft regulation, however in its opinion further steps should be taken in order to simplify and clarify the concerned procedures and better inform and involve the local stakeholders. In addition, cross-border legal accessibility was one of the key topics of the Hungarian V4 Presidency which also expresses its commitment to the topic. It is the Department of Regional and Cross-border developments of the Ministry of Foreign Affairs and Trade which is responsible for the implementation of the draft regulation.

**In Poland**, referring to the Polish official governmental stand towards the draft regulation from 29<sup>th</sup> June 2018, such solutions would require a deep legal analysis in terms of compliance with national legislation, including the Constitution. The Polish party is concerned about the

application of the Cross-Border Commitment which may cause legal uncertainties – in their view.

Currently there are existing units responsible for harmonization of Polish law with EU legislation as well as implementing EU law into the Polish system in each sectoral ministry. The most important ministry in this matter is the Ministry of Foreign Affairs and in particular the European Policy Department. Subsequently, the European Policy Department could be the ideal choice for the general coordination and monitoring of the process as well as making sure that the legal harmonization on V4 level is in line with EU and national law. Moreover, there is an already existing legislation database put in place by the Government Legislation Center, which could be used as a source or hyperlink once it is synchronized for an external V4 legal harmonization database, as it provides the current status of legislation procedure with all updates.

**Slovakia** shares the Polish concerns regarding the Cross-Border Commitment which can be in conflict with the Constitution. According to the Slovak position, existing legal and organisational solutions can be satisfactorily applied for the resolution of legal obstacles.

Pursuant to the article 102 of the Constitution of the Slovak Republic, the President shall represent the Slovak Republic externally, negotiate and ratify international treaties. He / she may delegate this competence to the Government or, upon the consent of the Government, to its individual members<sup>22</sup>.

According to the legal system of the Slovak Republic, international treaties can be classified as:

- ❖ presidential treaties, which require the approval of the National Council of the Slovak Republic,
- ❖ governmental contracts which do not require the approval of the National Council; and by the scope of the obligations they go beyond the scope of the central state administration bodies established by a special law,
- ❖ ministerial contracts which do not require the approval of the National Council or the Government; and by scope of the obligations they do not go beyond the scope of the central administration bodies established by a special law.

The coordination of the preparation and the negotiation on the national level, concluding with the promulgation, execution and the termination of an international treaty assecures the Ministry of Foreign and European Affairs of the Slovak Republic. In the case of governmental

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<sup>22</sup> The delegation was made by the Decision of the President No. 250/2001 to transfer jurisdiction to negotiate certain international treaties.

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contracts, the Minister can request the President to delegate the powers for a member of the Government for the signature of a treaty.

The coordination of cross-border cooperation is performed by the Ministry of Interior of the Slovak Republic. This Ministry is simultaneously the legislative gestor of the presidential and governmental international treaties on state borders, border regime, including cross-border cooperation agreements. The Ministry of Interior creates legal and institutional basis for cross-border cooperation pursuant to the European Outline Convention on transfrontier cooperation (the so-called Madrid Convention of the Council of Europe), which came into force on May 2000 in Slovak Republic. After this convention became the part of the legal system of the Slovak Republic, the Ministry of Interior established legal framework for cross-border cooperation through bilateral international treaties and agreements concluded with some of the neighbouring countries and according to resolutions issued by the Government of the Slovak Republic, it is responsible for their implementation. Such agreements on cross-border cooperation were signed with the Czechia, the Hungarian Republic, Ukraine, and Republic of Poland. With the Republic of Austria, the Slovak Republic concluded a basic contract on cross-border cooperation between territorial units or authorities.<sup>23</sup> Following the Government's resolution, the Minister of Interior was appointed to ensure the implementation of these agreements.

The main objective of the intergovernmental commissions established based on these agreements is to support activities aimed at creating the conditions for the development of cooperation between inhabitants, territorial municipalities and other interested institutions in order to develop the frontier areas. The commissions inter alia make the platform for cross-border cooperation actors to exchange experience and to identify the barriers hampering the development. The work of the commissions is focused primarily on setting out general directions and to create basic conditions for the development of cross-border cooperation, to submit proposals to competent authorities of both countries in particular fields, to develop joint work programs aimed at developing cooperation between relevant authorities and to coordinate cross-border cooperation. Specific working groups are also set aiming to solve problems in the different areas of cooperation. The meetings of the commissions are held as necessary by mutual agreement of both sides but in accordance with the Statutes of the commissions, they should be held at least 1-2 times a year.

The commission meetings usually conclude on recommendations and proposals. Pursuant to the Statutes of particular commissions, these recommendations and proposals are adopted on

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23 Under this contract, no special commission was created as it was in other cases of cooperation. The possibility of concluding agreements is left directly to municipalities, higher territorial units, local state administration bodies and associations of municipalities within the powers of these authorities, that is conferred to them by national law

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the basis of the consensus principle of both parties and enter into force at the date of signature of the protocol by both Chairmen. Some of them require an approval by competent authorities of the relevant State. In this case, they shall enter into force at the date of written notification of such approval.

The Slovak Government appointed the State Secretary of the Ministry of Interior as Chairman. The Chairmen of the other state parties of the commissions are either the State Secretary (republics of Poland, Hungary) or the Deputy Minister (Czechia, Ukraine).

To sum up, the idea of easing cross-border mobility is unanimously welcomed by the V4 countries. At the same time, considering the way of obstacle management, the four governments have different approaches and viewpoints. The ECBM as a tool is not accepted with the same attitude. While Hungary welcomes the new tool and only sees necessary smaller modifications, the other three countries consider the instrument with bigger concerns. At the time of drafting the current study, it is impossible to foresee the destiny of the draft regulation but it seems to be evident that the application of the tool will not be without complications.

**Consequently, an alternative solution better adapted for the V4 countries can be a more favourable option for the four governments. The reluctance regarding the ECBM instrument experienced in the case of three countries can so justify the implementation of a specific tool for Visegrad Fours better aligned with the regional context.**

## **2. Proposal on a V4 level mechanism of legal accessibility**

In the followings, we present a proposal on a potential mechanism of eliminating cross-border legal and administrative obstacles matched the existing Visegrad cooperation. As it has been stated, due to the obligations resulted from the EU membership and the mandatory nature of EU regulations, the V4 countries will have to react on the necessity of developing such mechanism and setting up adequate institutions (CBCPs). Taking into account that the political integration of the four countries has been remarkably developing during the most recent years and that the main challenges (like the demographic decline and employment constraints caused by emigration, the need for economic catching up and for social and institutional reforms in parallel, etc.) and interests are common, it is worth weighing up the creation of a regional solution which can

- ❖ respond the EU level initiative,
- ❖ further enhance the internal political integration of the V4 cooperation and
- ❖ strengthen the inter-state mobility of people within the Visegrad group.

In order to underpin such a common solution, we have analysed

- ❖ the political systems and the law-making models of the four countries (with a view to having an overall picture on the procedures the model has to be matched with),
- ❖ the existing national level coordination mechanisms of the V4 cooperation (in order to harmonise the proposal with the existing mechanisms),
- ❖ the existing bodies of the Visegrad group (for the sake of concluding on institutional setting);

and summarised the lessons learnt from the first study of this project on the Nordic model considered as the best practice of overcoming legal and administrative obstacles.

Furthermore, in the last subchapters we drafted a benchmark on potential solutions of the mechanism, its coordination and communication procedures and potential financing. The model will be developed further in a more detailed version within the planned Handbook (guide) in the last phase of the project.

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## 2.1 Benchmark of national legislative systems of V4 countries

In order to prepare a proposal for a cross-border mobility mechanism on V4 level which fits together the political and legislator framework of the concerned countries we made country analyses giving the basis of the following benchmark.

For the single country analyses, see Annex I.

### 2.1.1 Political/governmental structure

When analysing the political and governmental structure of the V4 countries a quite high level of uniformity can be observed. First of all, in all four cases the supreme legislative and executive bodies are separated.

The legislative body in Hungary is called the National Assembly and it is responsible for debating and reporting on the introduced bills and for supervising the activities of the ministers. The Hungarian unicameral National Assembly consists of 199 members elected for four-year terms by popular vote and is formed of standing committees with functions aligned with the government structure (in the 2014-2018 cycle 14 standing committees are engaged in different areas).

In Slovakia the legislative organ is called the National Council and it is responsible for approving domestic legislation, constitutional laws and the annual budget. Furthermore, international treaties cannot be ratified and military operation cannot be approved without its consent. This body is also entrusted with the election of individuals to certain positions (for example: Justice of the Constitutional Court of the Slovak Republic) in the executive and judiciary branch of the state. Similarly to its Hungarian counterpart, the Slovak National Council is also unicameral and it consists of 150 members who are elected by universal suffrage under proportional representation.

In contrast, in the Czechia the Parliament is bicameral: the Senate is constituted of 81 seats, with members elected by popular vote for a six-year term and one third of the total number of Senators is re-elected every two years. In turn, the Chamber of Deputies is made up of 200 seats, with members elected for four-year terms by secret ballot. The functions of the Czech legislative body are very similar to its V4 counterparts as it is responsible for passing bills, modifying the Constitution, ratifying international agreements or dispatching Czech military forces abroad among others.

In turn, the Polish system resembles its Czech counterpart as Poland also has a bicameral parliament (also called as National Assembly) consisting of a 460-member lower house (Sejm)

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and a 100-member Senate; both houses are elected by direct elections, typically every four years.

The other branch of the political structure is the executive body, which is the government in each country. In all four countries the political and administrative roles of utmost importance are organized in a similar way. In all V4 countries the head of the state is the President who appoints the Prime Minister who in turn makes recommendations to the other members of the Government. In all cases the President is elected through a direct, anonymous vote, while the Prime Minister is usually the leader of the majority party or of the majority coalition of the Parliament.

In all cases Ministries are set up and entrusted with a series of responsibilities among which the most important ones are:

- ❖ to elaborate the conception of the development of concerned areas;
- ❖ to prepare drafts of necessary legislative modifications for the Government and to take care of appropriate legal regulation of matters within their competence;
- ❖ to manage and control activities of subordinated bodies within their department; and
- ❖ to develop international cooperation in matters falling in their scope of competences and to participate in the fulfilment of international obligations.

Furthermore, in the case of Hungary and Slovakia State Secretariats also help these processes by ensuring the coordinated operation of the ministries. The State Secretaries also prepare the ministries' organizational and operational rules, write proposals on the ministries' work agenda and continuously monitor the implementation of the work schedule.

## 2.1.2 Government structure on regional and local level

It is a shared feature of the four analysed countries that in each case the administrative system is divided into three levels; beside the national level, certain government structures are present on the regional and on the local level respectively. These structures are broadly similar across the countries with smaller national specificities. The most important shared characteristic is that according to the legislations of the countries, there is no hierarchical relationship between the different levels, all of them possess equal rights and independency in their respective competencies.

The self-government structure of the regional level in the V4 countries is usually organized through a certain legal entity mirroring in small the national level's decision making body (National Assembly, National Council or Parliament). In the Hungarian case the County Council, in the Slovak case the self-governing regions' assembly, in the Czech case the

Regional Assemblies and in the Polish case the so-called Voivode Sejmiks are the legal and administrative bodies that are entrusted with the tasks of regional governance.

Considering the lowest level, similarity can be observed across the countries. In the case of Hungary, Slovakia and the Czechia Municipalities or Municipal Councils while in the case of Poland local self-government units are entrusted with the local issues. In all cases it is the mayor who is the executive authority of the municipality, coordinates municipality administration, and represents the municipality externally.

The division of the tasks and responsibilities between the regional and the local level is a highly important matter as it defines the specific competences of each bodies which in turn ensures the efficient operation of the country's complex governmental structure. In our case, this aspect is crucial because the application of the ECBM tools will influence the most these authorities.

When analysing the division of power in each countries it was found that the competences of the regional governmental level is the one where the biggest differences can be found among the V4 countries, even if these differences are not to be overly pronounced. The particularities of each countries are compared and contrasted in detail in the Table 1, but in broad terms it can be said that while in Hungary (and to a lesser extent in the Czechia) the role of the regional level is mostly reduced to be either symbolic or be more distinct in planning and strategy making (especially in issues such as territorial development), in Poland and in Slovakia, the regional level has stronger competences which include certain powers in the education sector, healthcare sector and road transport.

In contrast, the competences of the local governmental level are not showing considerable differences when compared across the countries as usually these cover the issues of spatial planning on the local scale, social welfare responsibilities and nature protection on the local level. The particularities of each country are compared and contrasted in the table below.

Table 1: Competencies of the regional level (based on the collection of the European Committee of the Regions)<sup>24</sup>

Czechia	Hungary	Poland	Slovakia
<ul style="list-style-type: none"> <li>❖ Education (secondary education and funding);</li> <li>❖ Transport (road network, regional public transport);</li> <li>❖ Social services;</li> <li>❖ Environmental protection;</li> <li>❖ Regional economic development;</li> <li>❖ Planning (approval of planning and zoning documents);</li> <li>❖ Health care, including drug prevention;</li> <li>❖ Youth;</li> <li>❖ Sport;</li> <li>❖ Fire safety;</li> <li>❖ Cohesion (regional boards on cohesion);</li> <li>❖ Tourism (development plans in the field of tourism, implementation and monitoring);</li> <li>❖ Prevention of criminality;</li> <li>❖ Inter-regional and international cooperation with foreign territorial authorities;</li> <li>❖ Other matters of regional interest;</li> <li>❖ Other matters delegated by the State;</li> </ul>	<ul style="list-style-type: none"> <li>❖ Territorial development;</li> <li>❖ Rural development;</li> <li>❖ Land-use planning;</li> <li>❖ Coordination activities;</li> </ul>	<ul style="list-style-type: none"> <li>❖ Economic development;</li> <li>❖ Employment and labour market policy;</li> <li>❖ Transport (regional roads and transport management);</li> <li>❖ Telecommunications;</li> <li>❖ Health (health promotion, specialised health services, medical emergency and ambulance services);</li> <li>❖ Regional cultural institutions;</li> <li>❖ Planning (spatial development; water management, land amelioration; maintenance of hydro-installations);</li> <li>❖ Rural areas modernisation;</li> <li>❖ Education (post-secondary schools, some secondary schools and vocational schools, teacher training colleges, voivodeship libraries; initiating the establishment and financing of higher education);</li> <li>❖ Social welfare;</li> <li>❖ Sports and tourism;</li> <li>❖ Consumer rights protection;</li> <li>❖ Defence;</li> <li>❖ Maintenance of public order;</li> <li>❖ Environmental protection;</li> <li>❖ Pro-familial policy;</li> </ul>	<ul style="list-style-type: none"> <li>❖ Social, economic and cultural development;</li> <li>❖ Management of own budget;</li> <li>❖ International and trans-regional cooperation;</li> <li>❖ Regional planning;</li> <li>❖ Social welfare (homes for children, social policy and coordination of all subjects related to this area);</li> <li>❖ Healthcare (establishment of hospitals of second type, management of non-State healthcare as psychiatric hospitals and dental services);</li> <li>❖ Education (secondary, professional, art and vocational schools, construction and maintenance of buildings, payment of teacher on behalf of the State);</li> <li>❖ Transport (construction and maintenance of regional roads, coordination of railway system);</li> <li>❖ Culture (regional theatres, libraries, museums, galleries and cultural centres);</li> <li>❖ Tourism;</li> <li>❖ Sport;</li> <li>❖ Youth;</li> <li>❖ Human pharmaceuticals (issuing licences, managing and decision-making on pharmaceutical issues);</li> <li>❖ Civil defence;</li> </ul>

24 Source for Hungary: CoR - Division of Powers – Hungary:

<https://portal.cor.europa.eu/divisionpowers/countries/MembersNLP/Hungary/Pages/default.aspx>

Source for Slovakia: CoR - Division of Powers – Slovakia:

<https://portal.cor.europa.eu/divisionpowers/countries/MembersNLP/Slovakia/Pages/default.aspx>

Source for Czech Republic CoR - Division of Powers – Czech Republic:

<https://portal.cor.europa.eu/divisionpowers/countries/MembersNLP/CR/Pages/default.aspx>

Source for Poland: CoR - Division of Powers – Poland:

<https://portal.cor.europa.eu/divisionpowers/countries/MembersNLP/Poland/Pages/default.aspx>

Table 2: Competences of the local level (based on the collection of the European Committee of the Regions)<sup>25</sup>

Czechia	Hungary	Poland	Slovakia
Culture and sport			
<ul style="list-style-type: none"> <li>❖ Sport;</li> <li>❖ Culture;</li> </ul>	<ul style="list-style-type: none"> <li>❖ Public library services;</li> <li>❖ Cinemas;</li> <li>❖ Performing art organizations;</li> <li>❖ Protection of local cultural heritage; support to local community education;</li> </ul>	<ul style="list-style-type: none"> <li>❖ Promotion, management of municipal libraries and other cultural institutions;</li> <li>❖ Monument protection;</li> <li>❖ Sports (promotion);</li> </ul>	<ul style="list-style-type: none"> <li>❖ Local cultural centers;</li> <li>❖ Libraries;</li> <li>❖ Local sport centers;</li> </ul>
Transport			
<ul style="list-style-type: none"> <li>❖ Providing public transport;</li> <li>❖ Management of local roads;</li> </ul>	<ul style="list-style-type: none"> <li>❖ Providing local public transport</li> </ul>	<ul style="list-style-type: none"> <li>❖ Providing public transport;</li> <li>❖ Management of local roads;</li> </ul>	<ul style="list-style-type: none"> <li>❖ Providing local public transport;</li> </ul>
Urban development			
<ul style="list-style-type: none"> <li>❖ Management and maintenance of open spaces;</li> <li>❖ Cemeteries;</li> <li>❖ Water management and treatment;</li> <li>❖ Urban heating;</li> <li>❖ Waste processing;</li> </ul>	<ul style="list-style-type: none"> <li>❖ Land use planning</li> <li>❖ Developing and maintaining public cemeteries;</li> <li>❖ Providing street lighting;</li> <li>❖ Providing industrial chimney sweeping services;</li> <li>❖ Developing and maintaining public parks and other public areas;</li> <li>❖ Providing space for parking vehicles;</li> <li>❖ Naming public areas and public institutions in self-government ownership;</li> <li>❖ Waste management;</li> <li>❖ District heat supply;</li> </ul>	<ul style="list-style-type: none"> <li>❖ Water and supply sewage treatment;</li> <li>❖ Maintenance of landfills;</li> <li>❖ Real estate management;</li> <li>❖ Public areas (including cemeteries);</li> <li>❖ Maintenance of gmina buildings and public facilities;</li> <li>❖ Telecommunications;</li> <li>❖ Electricity, gas and heat supply;</li> </ul>	<ul style="list-style-type: none"> <li>❖ Local public utilities and networks including water supply and sewerage;</li> <li>❖ Waste collection;</li> <li>❖ Urban heating;</li> <li>❖ Construction and upkeep of public areas;</li> <li>❖ Cemeteries;</li> <li>❖ Street lighting;</li> <li>❖ Maintenance of municipal property;</li> </ul>
Social services			
<ul style="list-style-type: none"> <li>❖ Health services;</li> <li>❖ Social welfare (social assistance and youth policy);</li> <li>❖ Fire-fighting and prevention;</li> <li>❖ Municipal police;</li> <li>❖ Primary education;</li> <li>❖ Housing;</li> </ul>	<ul style="list-style-type: none"> <li>❖ Primary healthcare, services promoting healthy ways of living;</li> <li>❖ Kindergarten services;</li> <li>❖ Social, child welfare and child protection services;</li> <li>❖ Housing and property management;</li> <li>❖ Rehabilitation of the homeless and prevention of homelessness;</li> <li>❖ National defense, civil defense, disaster protection, local public employment;</li> <li>❖ Nationality affairs;</li> <li>❖ Participation in ensuring public</li> </ul>	<ul style="list-style-type: none"> <li>❖ Market places;</li> <li>❖ Housing;</li> <li>❖ Education (kindergartens; elementary education).</li> <li>❖ Health (Primary healthcare services);</li> <li>❖ Social welfare;</li> <li>❖ Family support and foster care system</li> </ul>	<ul style="list-style-type: none"> <li>❖ Education (pre-school and primary school, maintenance and construction of buildings, payment of teacher and staff salaries on behalf of the State);</li> <li>❖ Social welfare (personal assistance, homes for the elderly, social services for children);</li> <li>❖ Housing (housing development, construction and maintenance of social housing);</li> <li>❖ Health (establishment of</li> </ul>

25 Source for Hungary: CoR - Division of Powers – Hungary:

<https://portal.cor.europa.eu/divisionpowers/countries/MembersNLP/Hungary/Pages/default.aspx>

Source for Slovakia: CoR - Division of Powers – Slovakia:

<https://portal.cor.europa.eu/divisionpowers/countries/MembersNLP/Slovakia/Pages/default.aspx>

Source for Czech Republic CoR - Division of Powers – Czech Republic:

<https://portal.cor.europa.eu/divisionpowers/countries/MembersNLP/CR/Pages/default.aspx>

Source for Poland: CoR - Division of Powers – Poland:

<https://portal.cor.europa.eu/divisionpowers/countries/MembersNLP/Poland/Pages/default.aspx>

Czechia	Hungary	Poland	Slovakia
	safety of their municipality;		outpatient departments, first aid stations, hospitals and medical centers; ❖ Public order (local police, voluntary fire-fighting units);
Environmental protection			
❖ Environmental protection;	❖ Environmental health (refuse collection, sanitation of urban environment, control of pests and rodents); ❖ Protection of the local environment and nature, water management, preventing flood damages, supply of drinking water, canalization, treatment and disposal of waste or water (sewage service);	❖ Environment (protection; zoning and local environmental protection);	❖ not specified
Economic development			
❖ Local development;	❖ Duties related to local taxes, organizing local economy and tourism; ❖ Providing sales opportunities for small-scale producers and licensed traditional producers, including weekend markets;	❖ not specified	❖ Local management and local taxes; ❖ Local planning and tourism development strategies;

It is important to note that despite of having certain local and regional competences in all V4 countries, the concerned territorial units are not able to take cross-border joint actions in several fields. For example, it is not automatically allowed to operate schools, medical facilities or local transport network together or jointly plan and organize waste management, energy supply, etc. Here comes the relevance of the draft ECBM regulation which would offer solutions for bridging this gap.

### 2.1.3 Legal framework of law-making and bodies responsible for adopting legal provisions

As summarized in the Table 3, concerning the legal framework of law-making, the V4 countries expose more diversity. In Hungary, as defined in the Fundamental Law, Acts of Parliament are adopted by the National Assembly by a simple majority of votes and are devoted to determine the rules for fundamental rights and obligations. Apart from these acts the decrees (government decrees, Prime Ministerial decrees, ministerial decrees, decrees by the Governor of the National Bank of Hungary, decrees by the heads of autonomous regulatory bodies, local government decrees, National Defence Council decrees and decree of the President of the Republic) are designed to regulate on the given level issues that are undefined on a higher level. Subsequently, the bodies responsible for adopting legal

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provisions are the National Assembly (acts, cardinal acts), Government (decree), Prime Minister and Ministers (decree), Governor of the National Bank of Hungary (decree), Heads of autonomous regulatory bodies (decree), local government (decree).

In contrast, in Slovakia there is a much more fragmented system where the National Council of the Slovak Republic has the legislative power to issue constitutional acts and acts, while the Government can issue government regulations. Furthermore, the Ministries and other central state government bodies has the power to publish decrees, declarations and measures, while the municipal and city authorities can design generally binding regulations with a territorial scope.

Similarly, in the Czechia there are eight bodies responsible for creating the legal framework of law-making through adopting the legal provisions. These are the Parliament issuing constitutional laws, laws and Senate legal measures, the Government drawing up regulations, the ministries and the National Bank with the power of drafting decrees. Furthermore, the President has specific legislative power as well. Finally, the municipalities and the regions can formulate generally binding rules with the former having the additional power of writing regulations in certain delegated areas.

Poland is not significantly different from the previous three countries when it comes to the legal framework of law-making and the bodies responsible for adopting legal provisions. Subsequently, the Polish Constitution is the highest law in the Republic of Poland to which all legal acts in force in Poland should be consistent with. The bodies who have the power to initiate a legislative process are the deputies to the Sejm (a Sejm committee or a group of at least 15 deputies); the Senate (a resolution of the entire Chamber is necessary); the President; the Council of Ministers, i.e. the government. Furthermore, the Constitution also provides an opportunity for citizens to introduce a bill by means of the so-called mechanism of 'popular initiative'; yet such a bill requires the signatures of a group of 100 000 citizens having the right to vote in elections to the Sejm.

Finally, the legal framework of law-making also includes the aspect of the international agreements. All four countries have a system to conclude international agreements with other states and governments of other states. Only the ratified international agreements have a universally binding force and if there is a conflict between the ratified international agreement and the given country's law, then the content of the international treaty has a primacy. The ratification process of each country differs slightly from each other. While in Hungary it is the National Assembly authorized to recognize the binding force of international treaties, in Poland ratification can take place in two ways: either with the consent expressed in the form of a legal Bill (Article 89 paragraph 1 of the Constitution) or through the process called small ratification (Article 89 paragraph 2 of the Constitution) where the Council of Ministers gives a

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notification to the Sejm. In Slovakia the international treaties can be divided into three groups: (1) presidential treaties requiring the approval of the National Council of the Slovak Republic, (2) governmental contracts not requiring the approval of the National Council and (3) ministerial contracts which do not require the approval of the National Council or the Government and by scope of the obligations they do not go beyond the scope of the central administration bodies established by a special law.

*Table 3: Summarizing table of the bodies responsible for adopting legal provisions*

	<b>Czechia</b>	<b>Hungary</b>	<b>Poland</b>	<b>Slovakia</b>
<b>National Assembly/ Council/ Parliament</b>	Constitutional Laws, Senate legal measures	Fundamental Law, Acts, Cardinal Acts	Constitutional Laws, Bill	Constitution, constitutional acts, acts, international treaties higher than acts, international treaties with the force of an act
<b>Government</b>	Regulations	Decree	Governmental regulation	Regulations
<b>Ministers</b>	Decree	Decree	-	Decrees, declarations, measures
<b>Governor of the National Bank</b>	Decree	Decree	-	-
<b>Regional government</b>	Regulation in delegated competencies, Generally binding rules	Decree	acts of local law	-
<b>Local government</b>	Regulation in delegated competencies, Generally binding rules	Decree	acts of local law	Generally binding regulations

### 2.1.4 The legislative process

Even though there are some particularities of the legislative process characterizing each country, in general the law-making process shows a similar logic in all the V4 countries. The first step is always the submission of the legislative proposal which can be done by the ministries, a central state administration body, or in the case of the Czechia also by the Senate. In case the proposal is submitted by a Ministry, then an intra-ministerial debating, commenting and voting process takes place the particularities of which are summarized in Table 4. However, if the proposal was not submitted by a governmental player, then this step is missing.

This is followed by the process within the Parliament. Typically, this process contains a series of debates which is usually resulting in drafting amendments which are worded by the given Committee and submitted to the initiator together with the summary of the detailed debate. The proposed bill is debated in the plenary, first as a general debate. If the Parliament has no proposal for amendments, the decision is made on a single vote. If, however, there are still disputed points, the proposed bill is sent back to the committee on legislation to renegotiate

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the problematic issues. While in Hungary an Intra-Parliamentary Committee is entrusted to check whether the new bill fits into the country's legislation, in Poland it is the Government Center for Legislation, in Czechia the Government Legislative Council and in Slovakia the Legislative Council that are responsible for harmonizing the new law with the existing ones. These entities have the right to reject a proposal and are consulted in every case.

When the second unified proposal is ready, the Parliament debates it again and holds a final vote on the single proposal as a whole. After the approval of the bill, it is adopted by the President (Hungary and Slovakia), by the Senate (Czechia) or by the Sejm (Poland). The process is closed by the promulgation of the adopted bill in the collection of laws of the given country.

Finally, when discussing the legislative process in the V4 countries, the aspect of the EU membership also needs to be taken into consideration. Since all four countries are part of the European Union, their legislative duties had been to a certain degree altered. Firstly, the nature and proportions of law-making had been modified, and, secondly, the scope of responsibilities of the Parliament had been expanded to cover new elements. EU law can be of two types: primary and secondary law; the acts of primary law include international agreements such as the Treaty on European Union and the Treaty on the Functioning of the European Union. On the other hand, the secondary legislation adopted by the EU institutions can be of three types:

- ❖ the regulations – legal acts applying automatically and uniformly to all EU countries as soon as they enter into force;
- ❖ the directives – sets certain end results for EU countries but does not specify the means to achieve it; and
- ❖ the decisions – that are binding legal acts applying only to certain EU countries, companies or individuals and are not incorporated into national law.

The EU secondary legislation acts stand on a higher hierarchy than the national acts when there is a conflict between them.

However, it also has to be mentioned that there is no need for national regulation in areas regulated exhaustively by EU law and wherever the EU has exclusive competence. National parliaments retain their power to make laws in full or in part in areas subject to shared or national competence. In other words, the EU regulations are directly applicable, they do not mean an additional legislative burden on national parliaments. But – as pointed out above – the transposition of directives into the national legal system has emerged as a new responsibility. In addition, rooting from their nature, the transposition of the directives may vary from member state to member state leading to legal and administrative differences.

*Table 4: Comparative analysis of the legislative systems of the V4 countries*

Steps	Czechia	Hungary	Poland	Slovakia
Government-level procedure				
<b>1</b>	Proposal of a bill (by a Ministry)	Submission of the legislation proposal	A bill is proposed by a member of the Council of Ministers or the Prime Minister	The draft law is submitted by the Ministry or by other central state administration body, a Member of the Parliament or by a Committee
<b>2</b>	Drafts of legislative materials are submitted to the relevant bodies for their opinion and published on the Internet	Interdepartmental and interministerial consultation Preparatory phase in committee: The Speaker designates a bill for debate in one or more standing committees	Interdepartmental and interministerial consultation, then debate by the Permanent Committee of the Council of Ministers	Intra-ministerial commenting procedure of other departments within the Ministry (if initiated by a Ministry, if not, the bill is submitted to the Legislative Council)
<b>3</b>	The Government Legislative Council gives its opinion.	Opinion of the Conference of State Secretaries  The designated standing committees establish their position on whether the bill is suitable for a general debate	Opinion of the Government Center for Legislation	The Legislative Council of the Government gives its opinion
<b>4</b>	Government debate and vote, then the bill is passed to the Chamber of Deputies. Its Chairperson passes the bill to the Steering Committee	Government discussion and decision, then the legislation proposal is sent to the Parliament	Adoption of the draft bill by the Council of Ministers and referral to the Sejm	Government discussion and decision, then the draft law together with an explanatory memorandum is sent to the Chancellery of the National Council
Parliamentary procedure				
<b>5</b>	Proposal of a bill by the Government, a deputy, the Senate or Regional Councils	Submission of the legislative proposal by the President, the Government, parliamentary committees or Members of the Parliament	Proposal of a bill by the President, the Council of Ministers, 15 deputies or a Sejm committee, the Senate or 100 000 citizens	Proposal of the government to the Chancellery of the National Council
<b>6</b>		Detailed debate by the designated standing committee		
<b>7</b>	First reading: general debate as a result the bill is assigned to committees for deliberation.	General debate in the plenary sitting	First reading: the bill is debated by the Sejm or the assigned committee	First reading in the National Council: general debate on the substance of the proposed act

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Steps	Czechia	Hungary	Poland	Slovakia
8	Following a general and a detailed debate, the committee adopt a resolution with proposals to the plenary whether to adopt or reject the bill.	Detailed debate by the reading committees: vote on the amendments, then opinion by the Committee on Legislation: summary of proposed amendments	In case of Sejm plenary sitting, the bill is passed to a committee for elaboration of a report	Detailed debate by the assigned Committees of the National Council resulted in a summary report with potential amendments and additions and opinion of the Constitutional and Legal Affairs Committee
9	Second reading: general and detailed debate where amendments may be made by any deputies.	Plenary debate on committee reports and the summary of proposed amendments in a plenary sitting	Second reading: presentation of the committee report on the bill to the Sejm and, subsequently, carrying out a debate during which motions and amendments may be submitted	Second reading in the National Council: plenary negotiations with the Committees, vote on the amendments and additions
10	Third reading: vote on the amendments and the bill as a whole then forward it to the Senate	Vote on the summary of proposed amendments and a closing vote in a plenary	Third reading: presentation of the additional report of the committee concerning the adoption of the amendments and the bill as a whole then forward it to the Senate	Third reading in the NC: restricted to those provisions of the bill for which amendments or additions were approved on the second reading, then vote on the bill as a whole
11	Debate in the assigned committees of the Senate		Senate committee meeting resulting in a report	
12	Plenary meeting of the Senate: approve, reject or return the bill to the Chamber of Deputies		Senate sitting: debate and voting resulting in adoption, rejection (back to the Sejm), correction (back to Sejm)	
13	After the approval of a law by the Senate, the Chairperson of the Chamber of Deputies forwards every act of law to the President	The Speaker signs the law within 15 days and then sends it to the President of the Republic for promulgation	When the position of the Senate is considered, the Marshal of the Sejm refers the bill to the President of the Republic for signature	The adopted bill is signed by the President of the Slovak Republic, the Speaker of the National Council, the Prime-Minister
14	Promulgation of adopted bill in the Collection of Laws	Promulgation of adopted bill in the Collection of Laws	Promulgation of adopted bill in the Collection of Laws	Promulgation of adopted bill in the Collection of Laws

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## 2.2 Coordination of V4 activities at national level

### 2.2.1 Czechia

Ministry of Foreign Affairs of the Czechia is the central actor responsible for implementing Czech foreign policy. V4 cooperation represents a substantial part of the ministerial agenda. It has a prominent place in the structure of the ministry as well as its web appearance. Moreover, territorial cooperation under the V4 umbrella has an important role in the Long-term Conception of Czech Foreign Policy.

The Office of the Government of the Czechia is the body hosting the Prime Minister's Office. As part of the advisory bodies to PM the office also deal with foreign policy, mainly European affairs and V4 co-ordination, which has been an important topic mainly since the escalation of the migration crisis in 2015.

As the scope of Visegrád cooperation is rather broad, it is reflected in the agendas of other ministries, as well. The most recent development related to the refugee crisis underlined the need to cooperate on security and defence which have also intensified the cooperation of defence ministers. However, more traditional cooperation can be identified within the ministry of education, youth and sports, since a substantial number of cooperation initiatives come from these fields. The ministry have identified i.a. priorities for the youth cooperation under the Visegrád umbrella.

*Table 5: Examples of concrete cooperation agendas under the competences of individual ministries*

<b>Competent ministry</b>	<b>Field of cooperation</b>
Ministry of defence	Long-term vision of Visegrád countries on deepening their defence cooperation
Ministry of education, youth and sports	Framework Action Plan of Cooperation between Visegrad Group and Eastern Partnership Countries in the Field of Youth
Ministry of Industry and Trade	The Visegrad Patent Institute; and supporting research and innovation
Ministry of Transport	Cooperation on high-speed railways
Ministry of Labour and Social Affairs	Czech labour ministry is substantially less active in V4 cooperation which should be one of the key players in removing obstacles of labour migration. The ministry lists V4 cooperation among its priorities, however very little is done in practical terms. Ministry is engaged via its labour offices network in EURES-T Beskydy trilateral partnership of the Czech-Slovak-Polish borderland, however very little has been achieved and information are hard to find.

The regions and municipalities are actively involved in international cooperation. As there are 14 regions and 6258 municipalities in the Czechia, it is not possible to mention all activities.

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## 2.2.2 Hungary

Within the Ministry of Foreign Affairs and Trade, the Visegrad Cooperation and Central European Department is responsible for V4 countries cooperation<sup>26</sup>.

The Department is operating under the direction of Deputy Minister of State for Development of European and American Relations to the Deputy Minister / Parliamentary Secretary.

The Department coordinates the tasks related to the Visegrad Cooperation, the Central European Initiative and the Three Seas Initiative. The duties of collaboration with other departments and ministries involved in these regional cooperation are also assigned to the Visegrad Cooperation and Central European Department. The Department's further coordination tasks are:

- ❖ it contributes to drawing up and implementation of the government's regional cooperation policy,
- ❖ on the decision of the Parliamentary State Secretary it participates in the high level representation of the Hungarian economic policy issues in identifying further cooperation opportunities,
- ❖ it cooperates with the departments and supervised institutions directed by the Minister of State responsible for information and international image of Hungary for the purposes of maintaining Hungary's country profile ("image / PR") and widening relations,
- ❖ it cooperates with the civil servants and departments directed by the Minister of State for National Policy of the Prime Minister's Office, as well as with other public policy departments of the Ministry of Foreign Affairs and Trade in order to resolve Hungarian national policy goals through diplomatic means,
- ❖ it supervises and coordinates the activities of diplomatic missions within its remit, and cares for diplomatic relations with relevant countries.

The Department contributes to the management and coordination of bilateral foreign economic policy issues, in which it cooperates with the Deputy Minister of State responsible for growth in exports, the Deputy Minister of State responsible for investing, the Export Promotion Coordination Department, the Investment Promotion Department and diplomatic missions.

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<sup>26</sup> Rules of Organisation and Operation. Ministry of Foreign Affairs and Trade, Hungary. 06. 11. 2018.

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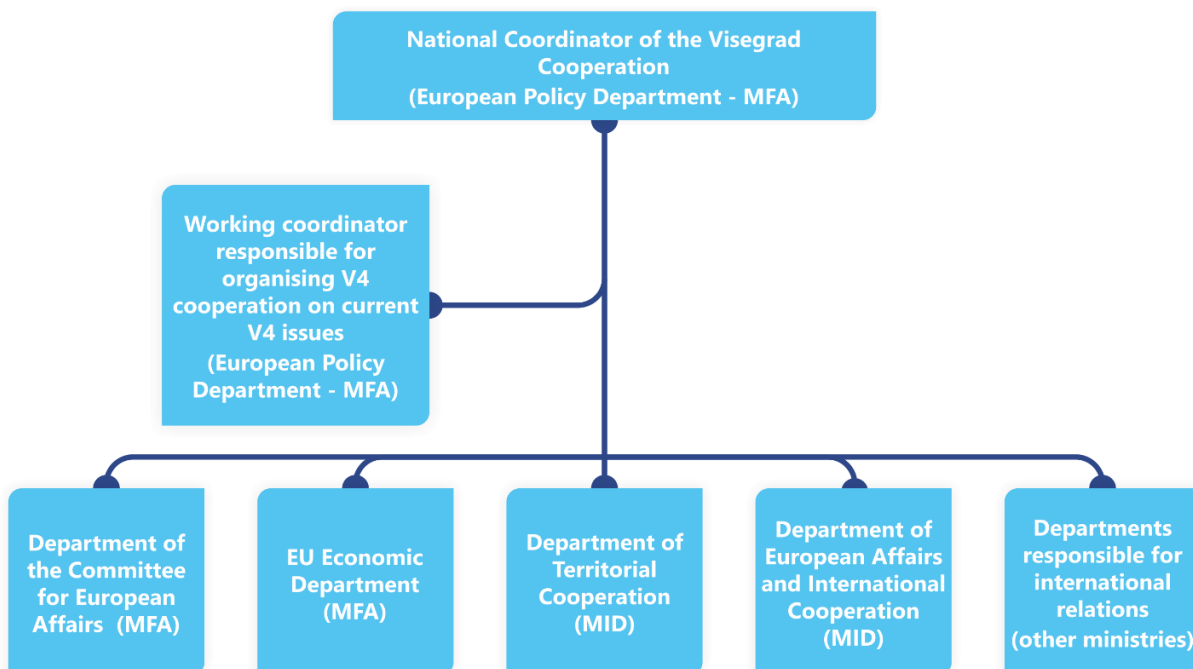
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### 2.2.3 Poland

Since the Visegrad Group does not have any formal institutional body except for the Visegrad Fund, all cooperation takes place voluntarily through meetings with concerned national representatives. On the most general political level Polish political actors responsible for V4 cooperation are the President (meetings once a year) and Prime Minister (twice a year). A political and strategic agenda determining main areas of cooperation is set each year by the country that holds a Presidency in the V4 group. The most recent Polish Presidency took place in 2016/17 and a respective report is a good source of identification of departments and members of government that are responsible for general and more specific areas of V4 cooperation<sup>27</sup>.

It is important to underline though, that the *ad hoc* mode of V4 cooperation is set for each particular situation or project. Therefore governmental units that coordinate V4 cooperation are mainly responsible for organisation of meetings and linking proper governmental units or central administration bodies with respective V4 institutions. There is an internal procedure for linking V4 cooperation partners that is illustrated in the Figure 2 below.

Figure 2: General flow of coordination of ad-hoc V4 cooperation in Polish government (own elaboration based on interview)



27 Report On The Polish Presidency Of The Visegrad Group 1 July 2016 – 30 June 2017 <http://www.visegradgroup.eu/documents/annual-reports/polish-presidency-report-180809>

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In Polish government there is a function of the National Coordinator for the Visegrad Cooperation (NCVC). At the moment it is the vice-director of the European Policy Department of the Ministry of Foreign Affairs. This is also a basic department responsible for direct contact with V4 countries. The NCVC is assisted by a working coordinator responsible for organising V4 cooperation on current V4 issues – a designated person from the same department, who plays a role of cooperation secretary and is responsible for all background tasks regarding V4 cooperation.

There are several key ministerial departments that participate in V4 cooperation on regular basis: Department of the Committee for European Affairs (Ministry of Foreign Affairs), EU Economic Department (Ministry of Foreign Affairs), Department of Territorial Cooperation (Ministry of Investment and Development), Department of European Affairs and International Cooperation (Ministry of Investment and Development).

The topic that has been a permanent subject of V4 cooperation is the common stand regarding EU Cohesion Policy. Other most popular topics include cultural cooperation, migration policy, security and Brexit. In case of these topics the procedure provides that it is the department responsible for international relations of particular ministries, that take on coordination of V4 cooperation in a particular sector. They are also expected to report to the NCVC on the course of the cooperation. In more complicated inter-sectoral matters NCVC foresees the cooperation coordinated by international departments of several engaged ministries.

As for today, there are governmental units and positions delegated to coordinate issues regarding V4 cooperation, including legal harmonisation (but on EU level). In terms of legal harmonisation there are existing units responsible for harmonisation of Polish law with EU legislation as well as implementing EU law into Polish system in each sectoral ministries. The most important ministry in this matter is therefore the Ministry of Foreign Affairs in particular the European Policy Department (see in Annex II - Poland). EPD vice-director is the National Coordinator of the Visegrad Cooperation. This department coordinates the government administration in the field of implementing EU law into the Polish legal system and gives opinions on legally binding acts of law in terms of compliance with EU law. Additionally, it prepares analyses in the field of EU law for the government administration. A particular unit responsible for V4 cooperation is Section of Central Europe. This Department has also developed and coordinated implementation of the Polish Presidency agenda in the V4 Group in 2016/17. In this context such set of competences in one department is a good starting point in terms of introducing legal harmonisation on V4 level. Other departments and ministries that have important role in either V4 cooperation or harmonisation process are mentioned in Table 5.

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## 2.2.4 Slovakia

The main coordinator of V4 countries cooperation is the Ministry of Foreign and European Affairs of the Slovak Republic. Under the relevant legislative acts, this Ministry is the central authority of the state administration for the foreign policy area and the relations of the Slovak Republic with other states, international organizations, clusters and European institutions. The Minister is a member of the Conference of Ministers of Foreign Affairs, which is the supreme decision-making body of the Visegrad Fund.

The main task of the Ministry is to coordinate the common activities of the Visegrad Group, to promote a common policy at the national level, and in particular, to prepare for and coordinate the V4 Presidency. It includes the elaboration of the Slovak Presidency Program, the preparation of the Summit and the meetings with the representatives of the V4 states.

The State Secretary is in charge of the international organizations agenda.

Upon close analysis of the V4 countries it can be stated that the mechanisms put in place to resolve legal and administrative obstacles in a cross-border context can and should be further strengthened. At the moment in each country a ministry (Czechia: Ministry of Regional Development, Hungary: Ministry of Foreign Affairs and Trade, Poland: Ministry of Investment and Development, Slovakia: Ministry of Foreign and European Affairs) is dedicated to handle these issues.

When looked at the actors responsible for the V4 cooperation, a similar picture can be painted. In Hungary the Ministry of Foreign Affairs and Trade and the Visegrad Cooperation and Central European Department, in Slovakia the Ministry of Foreign and European Affairs and the Conference of Ministers of Foreign Affairs, in Czechia the Ministry of Foreign Affairs and the Office of the Government, while in Poland the President, the Prime Minister, the Ministry of Foreign Affairs and the National Coordinator of the V4 Cooperation are the dedicated actors.

Furthermore, several sectoral ministries from each country are concerned with professional and multi-sectoral cooperation issues on a V4 level.

An interesting solution that mirrors procedures implemented in obstacle elimination in the Nordic Countries is responsibility of navigating a particular issue by the departments responsible for international relations of respective ministries that take on coordination of V4 cooperation in a particular sector. They are also already existing procedure regarding reporting and coordinating more complex issues. This procedure could be easily used for addressing an identified obstacle by a correct ministerial unit that could, for example prepare a government regulation of draft bill proposal to be put through the legislation procedure.

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The legal background of the V4 Cooperation is typically formed by international agreements or treaties which become part of domestic law via their promulgation by legal regulations.

Based on conducted interviews with Polish administration representatives responsible for V4 cooperation it is necessary to underline, that there are certain specific features of this cooperation that set context for possible deepening of this cooperation in terms of tasks related to mobility issues.

Single basic factor is an impression that there is lack of political dedication of making this cooperation tighter, formal, planned and having long-term agenda. Until now, the cooperation has been rather reactive and driven by events of international significance like economic crisis, migration crisis, Brexit. The V4 agenda is set each year by a country that chairs the presidency. In practice, apart from cohesion policy and culture there are no permanent fields of V4 cooperation. Some interviewees have been sceptical towards the idea of a real possibility of tightening V4 cooperation to a point where there could be a unit corresponding to the role of the new mechanism, taking into consideration, that Visegrad Group doesn't even have its own secretary, office and basic budget for coordination of meetings and managing priority areas for longer than a year. These institutional and political constraints would have to be addressed before launching any legislation-related cooperation on V4 level.

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## 2.3 Existing bodies of the Visegrad cooperation

Since 1993 the Visegrad Group, also known as Visegrad Four (abbreviated as V4), has been comprised of four countries sharing similar historical background cultural values, namely Czechia, Hungary, Poland and Slovakia, the latter became a separate participant after the breakup of Czechoslovakia. The group of member states covers an area of 533,627 km<sup>2</sup> with a population of 64,287,195 as of 2017.

The Visegrad Cooperation was formed on 15<sup>th</sup> February 1991 officially in Visegrád, Hungary. The historical roots date back to the Congress of Visegrad in 1335<sup>28</sup>, The Group can be considered as the second milestone of the long-term cooperation of the given lands, when as former Eastern Block countries the main aim was the coordinated integration to the western part of Europe and its international organisations. This idea was based on the motivation and belief that through joint efforts it was easier to successfully accomplish social transformation and join the European integration process. Besides EU integration another important role of the Visegrad Four at those times was the NATO accession. Member states reached these aims by 2004 since they all became members of both EU and NATO. After the V4 states' accession to both organisations, the Visegrad Cooperation became an essential framework of representing joint interests in the EU, launching joint projects, and bringing closer the societies of the respective countries.

The New Visegrad Declaration was accepted in 2004 in Kroměříž, Czechia, and is another milestone in the history of the cooperation since it has extended the areas of cooperation and deepened the cooperation mechanism. Four areas of cooperation (cooperation within the V4 area; cooperation within the EU; cooperation with other partners; cooperation within NATO and other international organizations) were assigned and the mechanism of the cooperation was also recorded. Based on the Guidelines on the Future Areas of Visegrad Cooperation drafted in 2004 the Visegrad Four is expected to be developed particularly in the following areas: (1) culture, (2) education, youth exchange, science, (3) continuation of the strengthening of the civic dimension of the Visegrad cooperation within the International Visegrad Fund and its structures, (4) cross-border cooperation, (5) infrastructure, (6) environment, (7) fight against terrorism, organised crime and illegal migration, (8) Schengen cooperation, (9) disaster management, (10) exchange of views on possible cooperation in the field of labour and social policy, (11) exchange of experiences on foreign development assistance policy, (12) defence and arms industries. (Szilágyi, I. M. 2014)

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28 In the October of 1335, Charles I, King of Hungary congregated a summit with the participation of John I of Bohemia and Casimir III of Poland as a results of which the three leaders agreed to create a new alliance and trade cooperation.

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In 2011, the so-called Bratislava Declaration has reinforced and further explained the abovementioned intentions, i.e. to foster cohesion and enhancing competitiveness of the V4 and EU, European energy security, to promote swift development of the V4 countries' transport infrastructure, to develop the principles expressed in the values of the four freedoms, to enhance the visibility of the Visegrad Group, to facilitate the process of enlarging the area of stability and democracy in the EU neighbourhood, to support and advocate the fostering of Euro-Atlantic links, including development of close strategic complementarities between NATO and the EU, to combat terrorism, human and drug trafficking, illegal migration, extremism and other security threats, to tackle challenges arising from climate change, support the fight against poverty, and to facilitate efficient provision of development assistance.

Still, stable rules regarding the form of the cooperation have not been set yet. The cooperation itself takes place at different levels depending on the range and level of the issues. Compared to the Nordic and Benelux cooperation models, V4 cooperation is not institutionalized (except for the International Visegrad Fund and the Visegrad Patent Institute), it is based solely on the principle of periodical meetings of country representatives at any level (from the high-level meetings of prime ministers and heads of states to expert consultations). The backbone of this cooperation consists of mutual contacts at all levels - from the highest-level political summits to expert and diplomatic meetings, to activities of the non-governmental associations in the region, think-tanks and research bodies, cultural institutions or numerous networks of individuals.

### 2.3.1 High level decision making

The cooperation of the Visegrad Group is shaped and designed at regular meetings of state representatives of the four Visegrad countries. The different levels include meetings of:

- ❖ the Prime Ministers: once a year
- ❖ other Members of the Government: when the need arises
- ❖ state secretaries responsible for Foreign Affairs: twice a year
- ❖ ambassadors: regularly, at least 4 times a year
- ❖ Visegrad Coordinators: regularly, at least twice a year.

The most important event in the Visegrad cooperation is the meeting of the four prime ministers once a year, which is called Summit. Annual Summit is led by the prime minister from the country holding the presidency of the V4 Group. In these events the prime ministers meet, and discuss the state of the V4 cooperation and other, strategic questions of Central Europe (e.g. future of Cohesion Policy or migration crisis recently). If proposal is made for meeting in

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the V4+1 format, such a proposal has to be first discussed among V4 countries and only then presented to a third country by the V4 presiding country.

Between the aforementioned official summits usually organised in June each year, one of the member states holds presidency over the group. Presidency is based on a rotational system which is fulfilled for one year period of time. At present Slovakia holds its fifth Presidency of the Visegrad Group since July 2018 until June 2019. Every upcoming presidency needs to elaborate its own Presidency Document consisting of different level of objectives, a description of what socio-political situation the Presidency aims at achieving or contributing to. The one-year plan of actions contains a motto, principles, 3 to 4 priority areas. In the case of each priority area a summary of the planned activities, mostly various events, meetings such as working meetings of ministers, expert meetings, conferences, are briefly described. The programme prepared by the presiding country has to be approved at the abovementioned Summit. Each presidency builds on the goals and achievements of previous V4 Presidencies.

The everyday Visegrad cooperation is coordinated by the Ministries of Foreign Affairs and National Visegrad Coordinators.

The outcome of the V4 Country Representative meetings is usually joint declarations (or other type of documents like communiqués, statements, etc.) adopted jointly by all member states. Joint declaration adopted at the Summit is prepared by experts and relevant ministries long enough in advance. Text of Joint declaration is a result of common consultations among V4 partners; therefore declaration is approved and signed by all parties. Meetings of ministers have usually the same outputs – declaration, communiqué, statement or other.

The last Summit in Budapest in June 2018 approved V4 Joint Statement "Stronger Together". In this statement prime ministers outlined that "our common future is in Europe", and we have to work for stronger European economy. They expressed their common view in creating a new Multiannual Financial Framework of the EU, migration issue and accession for the countries of the Western Balkans. Joint declaration for cooperation to develop a high-speed railway network in Central Europe was also approved at this Summit. The main objective is to minimize train travelling times between Warsaw, Prague, Bratislava and Budapest and assess the feasibility of developing a high-speed railway network connecting these cities.

### **2.3.2 Organs of professional cooperation**

On professional level, the most effective and most common forms of cooperation take place through specific working groups. These groups focused on a specific area consist of various experts. . Such groups can be formed in an ad-hoc manner, depending on the negotiated issues, and are mostly perceived as more efficient, as they can be deliberately initiated and any

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time and on any level. E.g. the Working Group on Cultural Heritage was proposed in 2006 by the Polish side in order to identify and analyse opportunities and threats for cultural heritage resulting from the social and economic changes taking place in the Visegrad countries and in Central Europe. The hub of the project and the subprojects has been the International Cultural Centre, Kraków, which is a national cultural institution. On the other hand, several permanent working groups operate with different focus (such as Energy, Human Resources, Health Policy, Drug Policy, V4 Innovation Task Force, etc.). Each working group may have initiatives to carry out concrete actions/projects.

### ***Defence***

The first to mention is the cooperation in the field of military and security. Since the beginning of the Visegrad Group there have been efforts to create and to strengthen the cooperation. One of the major moments was the withdrawal of Soviet troops from the territory of the countries involved and the necessity of tackling the problems associated with the dissolution of the Warsaw Pact. Another point was the closer connection to Western European structures due to fears of a potential security vacuum in Central Europe. In 1990's all discussions and efforts failed due mainly to the fact that each country focused primarily on the European integration and membership in NATO. All subsequent debates on this topic were of a political nature, until the economic crisis, which arose in 2009, and the issue of defence cooperation became relevant again.

The V4 countries decided to create a **Joint V4 EU Battlegroup** (V4 EU BG) in 2011, which was expected to be formed by the year 2016. One of the main goals in this area was to enhance the interoperability of the respective armies and their equipment in order to be able to cooperate without significant difficulties. Each country is responsible for different sectors of the Battlegroup. The leading country of the V4 EU BG is Poland and therefore it also has the widest range of responsibilities including planning, preparation, training and certification of the whole unit as well as communication and responsibility for information systems. Czechs lead the logistics, Slovaks concentrate on protection from chemical, biological, radiological and nuclear weapons and Hungarians are responsible for engineering.

For the purpose of defence planning cooperation the **V4 Planning Group** was established. It is comprised of national planning and/or procurement experts led by the Defence Planning Director. The Planning Group searches possible areas of cooperation in capability development. It holds its sessions at least twice during every presidency year, and utilizes the margins of related EU, NATO, or other international events if possible. The chairman of the planning group is chosen accordingly to which state holds the presidency at the moment. The accompanied expenses are, however, covered by the principle "costs lie where they fall". It

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means that the country pays for what it provides and the more the country gives, the more it pays. The work of the Planning Group should be supported by the activity of Working Teams staffed by subject matter experts, whose task is to develop the details of the projects and inform the Planning Group. Teams can take on non-permanent structures most suitable for providing solutions or options for the tasked projects (e.g. working groups or a network of contacts), The Group is an expert forum led by the defence planning chiefs, also including experts from force planning and armament planning and the chairpersons of the Working Teams for consultancy.

According to the military and security cooperation, various documents (Long Term Vision of the Visegrad Countries on Deepening their Defence Cooperation, Framework for Enhanced Visegrad Defence Planning Cooperation, and Memorandum of Understanding on Establishment of the V4 EU BG particularly), strategies focusing on joint training and exercises of the armed forces, military education, joint airspace protection and the military cooperation within European and NATO structures have been created or adopted.

### ***Energy***

Besides defence, one of the key priorities within the V4 countries cooperation is to support and to develop the regional cooperation in the field of the energy sector. In 2002, Hungary initiated the establishment of an **Expert Working Group on Energy**. The group meets 1-2 times a year in V4 capitals on a rotating basis. The meetings are chaired by the head of the host country delegation. In the first year of its operation, the working group was focusing primarily on the exchange of information concerning energy policies and on stockpiling of oil and oil products. The objectives radically changed after the integration of the V4 countries in the European Union. It was necessary to implement the energy projects in oil, gas and electricity sectors taking into account the EU priorities in this field. It was necessary to solve certain energy issues not at national, but at European, or even at global level.

Considering the present standpoint of the V4 and the future plans it can be stated that the completion of Energy Union is a topic that will continue to be important for the V4. The Visegrad Group is interested in a coordinated promotion of a common requirement to maintain competitiveness, security of supply, adequate prices for end consumers, and sovereignty in the selection of energy mix for each member state. Strengthening of the North-South interconnections is a priority.

### ***Transport***

The next area of the V4 cooperation is the transport. For this purpose there was set up the **High Level Working Group on transport interconnections**. It is responsible for the

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coordination of the development of transport infrastructure in the region. In the field of infrastructure, the long-term dominant issue remains the completion of the regional road infrastructure in the context of Trans-European Transport Networks. The objective of its work and discussions is especially the need of developing the North-South axis, on which the intensification of trade, tourism, an influx of foreign investment and the competitiveness of the region as a whole largely depends on and the building of an integrated transport system between the countries of the Central European region.

Regarding railway connections, the V4 countries play a key role in the process of designating transcontinental rail corridors for the transport of bidirectional commodity flows within the European subcontinent by:

- ❖ performing the function of transit countries for bidirectional Asia-Europe commodity flows,
- ❖ being located on the technological frontier between two different railway gauges (European gauge, broad gauge) with a potential for constructing the railway transshipment points of commodity flows.

The Group deals also with transport security, **the improvement of the permeability of the borders between the V4 countries**, the environmental aspects of infrastructure development and intelligent transport systems in the future. The Hungarian Presidency of 2017/2018 supported the development of a cross-border sub-regional passenger transport, with an emphasis on (1) the sharing of continuously updated timetables between the countries; (2) examination of the possibilities of establishing a joint tariff system including cross-border public services.

### ***Think Visegrad***

The **Think Visegrad** is a network of think-tanks from the V4 region which was established in 2012 with the aim of initiating a structured dialogue on issues of strategic regional importance. The network regularly elaborates short- and long-term analyses in the field of energy security, internal cohesion, EU institutions and politics, the Western Balkans, the Eastern Partnership, environmental protection, transport, etc.; in addition it provides recommendations to the V4 governments, the presidencies and the International Visegrad Fund. The network has 8 core members from the V4 countries, but it is an open platform for cooperation with other think tanks mainly, but not exclusively from the region. The Think Visegrad is the only V4 structure that is financed by the International Visegrad Fund. Its annual budget is around 50-100 000 €.

### ***Further fields of cooperation***

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In order to enhance the harmonisation of innovation policies and support startups and fast-growing innovative SMEs, a working group for innovation (**V4 Innovation Task Force**) was initiated by the Slovak Presidency in 2014. The Task Force consists of representatives from the main policy making bodies responsible for supporting startups in the four member countries who meet at least three times a year. In line with the Tech Match event in April 2015 in Silicon Valley, a virtual Visegrad platform, the **We4Startups** for startups from the V4 region was established in order to enhance the cooperation with local investors, incubators, accelerators from the Silicon Valley.

Another operating body is the **V4 Expert Group for economic analyses**. It was established for better coordination of common investment programs and joint participation on third market procurements. Research and development cooperation has been launched in the framework of the EU Horizon 2020 programme. The V4 Chambers of Commerce and Industry agreed to hold regular business fora and support the business partnerships in the region.

The **Carpathian Convention Working Group on Sustainable Tourism** operates in the field of tourism. The representatives of 4 member states meet regularly in order to exchange information concerning tourism-related activities and to strengthen their mutual relations. The main objective of mutual cooperation is to increase the tourism flow from the third, especially overseas, countries by elaborating joint marketing plans, as well as organising joint marketing activities on these markets. The group also aims to increase the marketing and promotional activities in the USA, the Russian Federation, India, the People's Republic of China, the countries of Commonwealth of Independent States, South American markets, South Korea, South East Asian markets and Singapore.

Last but not least, the cooperation with Police forces and other relevant Law-Enforcement Agencies appears to be of high importance. The cooperation takes place primarily in the area of combating organised economic crime, drug crime, cyber-crime, terrorism and extremism, and cross-border observation. In the case of combating extremism, the **V4 + Austria Working Group on Combating Extremism** was created, within which regular expert meetings are held to exchange experiences.

Beside the abovementioned, there are some further issues which became the object of mutual cooperation between the V4 countries. Basically, the working groups are set up for such issues which are the objective of a long-term cooperation. Besides them, one-time meetings of the experts are also organized.

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### 2.3.3 V4 institutions

The Visegrad Group is generally based on an informal form of cooperation of the participant four Central European states. Due to the weak institutionalisation there are only two formalised cooperation structures or "institutions": the International Visegrad Fund and the Visegrad Patent Institute (VPI).

#### ***The International Visegrad Fund***

The International Visegrad Fund is based on the statute signed by the Prime Ministers of the V4 countries on 9 June 2000. It is recognized as an international organization with its own secretariat in Bratislava, the capital of Slovak Republic. According to its Statute based on Article 35 the Fund has full legal personality necessary for the fulfilment of the aims associated with its activities. The aim is to promote regional cooperation in the Visegrad region as well as between the V4 and the other countries, especially with the Western Balkans and Eastern Partnership regions. All its activities are aimed at strengthening the common identity of Visegrad nations and intensifying contacts between societies.

The International Visegrad Fund provides grant programmes, mobility/scholarship programmes, university grants, and various types of artistic residency programmes in the field of culture, scientific research, education, tourism, etc. Supported projects include successful cultural events (musical and theatrical festivals, concerts and exhibitions), scientific seminars and conferences, infrastructure development and business environment, education (at academic level and beyond, e.g. retraining projects). Project partners can originate from different fields and sectors including non-governmental organizations (NGOs), civil society organizations (CSOs), municipalities and local or regional governments, educational institutions as well as private institutions, companies or individual citizens. These are all eligible stakeholders for grant support in case their projects deal with the region and further develop cooperation among project partners living or doing business in the V4 member states.

Currently the International Visegrad Fund runs three grant programs with the following objectives and strategic priorities:

- ❖ **Visegrad Grants:** The projects must develop meaningful cooperation and active participation of organizations from at least three V4 countries or in case of cross-border cooperation at least 2 organizations from 2 neighboring V4 countries provided they launch the project within a 40-km radius from the border. The maximum duration of project implementation is 18 months and grants can cover up to 100% of project budget with 15% for overheads. Furthermore, the projects must address at least one of the following objectives of the grant program's seven focus areas: (1) culture and common identity; (2) education and capacity building; (3) innovation,

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R&D, entrepreneurship; (4) democratic values and the media; (5) public policy and institutional partnership; (6) regional development, environment and tourism; and (7) social development.

- ❖ Visegrad+ Grants: apart from developing a meaningful cooperation and ensuring active involvement of at least three V4 countries, projects here have to have 1 entity from the EaP region or the Western Balkans countries. Similarly to the previous type of grants, the maximum duration of project implementation is 18 months where the grants cover up to 100% of project budget with maximum 15% of the requested sum for overheads. Projects must be implemented in the region of EU's Eastern Partnership or in the Western Balkans and have to clearly address one of the objectives of the program's seven focus areas which are identical to the previous type of grants.
- ❖ Strategic Grants: This type of grant supports projects addressing annual strategic priorities of the Visegrad Group and thus the projects have to ensure the active participation of organisations from all V4 countries. The maximum duration of projects is 36 months and the grants cover up to 100% of project budget with 15% for overheads. Projects must address one of the annual strategic priorities of the Visegrad Group which are announced annually by the V4 country holding the rotating presidency over the group.

In addition, the IVF The IVF supports the Mobility programmes including the Visegrad Scholarship Programme, Visual and Sound Arts, the Performing Arts, and Literary Residency Programme offering mobility solutions for students and artists not only within the V4 region.

The budget of the Fund consists of equal contributions of all V4 member countries. The total amount of contribution from all states per one year is 8 million euros. Other donor countries (Canada, Germany, the Netherlands, South Korea, Sweden, Switzerland, the United States) have provided about 6.5 million euros through various grant schemes run by the Fund since 2012. The Fund manages its own resources according to the budget approved by the Conference of Ministers of Foreign Affairs of the member countries. The budget consists of two parts: project funding activities and the operational costs of the Fund's Secretariat. Although, the exact distribution of costs is not public; based on the information of the International Visegrad Fund secretariat cca. 85% of the total budget covers the project funding activities, while the operation costs of the secretariat are capped by 11%.

Those are the International Visegrad Fund member states that are responsible for the supervision of the Fund's activities and hold rotating, one-year presidencies (separate from the Visegrad Group presidencies). Czechia holds the International Visegrad Fund presidency from

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1 January to 31 December 2018 (Slovakia held the International Visegrad Fund Presidency in 2017).

Regarding the organisational structure, the principal statutory bodies of the Fund are the Conference of Ministers of Foreign Affairs and the Council of Ambassadors.

The Conference of Ministers of Foreign Affairs is the supreme decision-making body of the Fund. It is comprised of the Ministers of Foreign Affairs from the V4 states or their duly authorised representatives. The Conference is held at least once a year in a member state holding the annual rotating presidency. The Conference of Ministers of Foreign Affairs approves the annual and long-term plans regarding the activities of the Fund as well as the budget of the Fund, annual statements and clearance of the budget presented by the Council of Ambassadors. Its main competences also include the designation of the amount of annual membership contributions, and the approval of the Rules of procedures of the Fund's Secretariat.

The Council of Ambassadors consists of the Ambassadors of the V4 member states accredited to the member state which currently holds the presidency of the Conference of Ministers. The Council meets at least once in every six months and in between these periods whenever it is considered to be appropriate for the implementation of the objectives defined by the International Visegrad Fund.

According to Article 18 of the Statute of the International Visegrad Fund, the Council of Ambassadors shall prepare programmes of activities of the Fund and reports on their implementation in the preceding year and submit them for approval to the Conference of Ministers of Foreign Affairs. The Council of Ambassadors decides on the projects to be supported within Visegrad Grants program. Decisions made by the Council of Ambassadors are final and shall present no grounds for any form of appeal and require no detailed reasoning. It acts as a controlling authority, as it reports annually on the state of implementation of individual projects financed by the Fund resources over the past year.

The International Visegrad Fund has its own Secretariat, which is the authority responsible for the administrative tasks and responsibilities thus it can be regarded as a sort of working organisation. The Secretariat is responsible for services provided during sessions of the Council of Ambassadors and services provided in relation to the sessions of the Conference of Ministers of Foreign Affairs as well as other services related to the functioning of the Fund. It has also a special position devoted to public relations. The Secretariat informs the public on the possibilities of participating in Funds' activities and processes of all applications submitted. The Head of the Secretariat is the Executive Director who is responsible for the implementation of the objectives of the Fund and is empowered to represent the Fund. His role is also to

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evaluate all submitted applications and to recommend the best of them to the Council of Ambassadors for approval. He is also the statutory representative of the Fund. The Deputy Executive Director has the role to represent the Fund in relation to other institutions, states and organizations and to represent the Executive Director in the time of his absence.

### ***The Visegrad Patent Institute***

The other, relatively new institute within the scope of the Visegrad Group is the Visegrad Patent Institute (VPI), which started its operation on July 1, 2016. The agreement on the Visegrad Patent Institute was signed by representatives of industrial property offices of the four member states on February 26, 2015 in Bratislava. It is an international organization for cooperation in the field of patents, created by the national patent offices of the four Visegrad countries.

The VPI operates as an International Searching Authority (ISA) and International Preliminary Examining Authority (IPEA) under the Patent Cooperation Treaty (PCT), benefitting from the existing capacities of the four patent offices. Operating of the VPI creates an opportunity for investors and businesses to benefit from the Patent Cooperation Treaty covering 148 countries from all over the world; to document and submit their patent applications in their own language with the help of local experts concerning the procedure. The anticipated cost of fees for a patent application submission is expected to drop 25% for companies and 37% for natural persons and may contribute to a growing number of international applications from the V4 countries.

The institute provides a search report and a preliminary opinion on the possibility of obtaining a patent for a given invention to applicants from Slovakia, the Czechia, Poland and Hungary. In addition to this, the VPI also provides its services to applicants from certain neighbouring countries from the region if it secures an application as a recognised ISA and IPEA from respective countries.

The structure of the VPI follows the existing successful model of the Nordic Patent Institute. Thus, the governance of the VPI as an intergovernmental organization is ensured by its Administrative Board composed of the representatives of the Contracting States, while the VPI's Secretariat, headed by the Director, is responsible for the organization, day-to-day management and administrative support of the VPI's work.

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## 2.4 Lessons learnt from the Nordic model – a summary

As a matter of fact, by now 280 000 Nordic citizens live in another Nordic country and 45 000 Nordic residents move each year to another Nordic country, furthermore 70 000 workers are commuting on a daily basis. These are the results of the long-term cooperation of more than 60 years between the Nordic countries which have been developed from step to step including the passport union, the fully integrated labour market and the free access to higher education and health care services.

In spite of the facts below, there is still a need for improving the conditions for mobility through the elimination of border obstacles and its promotion among decision makers, politicians and policy makers which was the main reason of establishing the Freedom of Movement Council within the framework of the Nordic Council of Ministers. Their work on coordination and promotion of obstacle identification, elimination and prevention has brought visible results over the last four years.

The efficiency of the border obstacle management system of the Freedom of Movement Council is reasoned by several factors. On the one hand, it is based to high extent on the existing institutions including national, macro-regional as well as transnational Nordic actors. It involves many different public and non-governmental bodies together with their employees and public servants that partake in the obstacle elimination system parallel to their everyday tasks. In this way people responsible for a particular stage of obstacle elimination stay close to practice and have the necessary power and influence resulting from their position in the institutional framework and in informal networks as well.

Regarding the Freedom of Movement Council itself, its members are activists committed to cooperation, being already in a senior position; they have experiences and extensive connections within regional, ministerial and sectoral environments. Their role is primarily to influence the ministries concerned and to present them possible solutions to the problem. Accordingly, they have great power to involve the relevant authorities from the Nordic countries which can help solve the border obstacles. Such composition generates dynamism, sense of mission and results in a very high appreciation of the topic in the agenda of all authorities and ministries.

The procedure of identifying and solving border obstacles is based on the principle of minimal bureaucracy. It capitalises on existing administrative settings which makes it easily adaptable to various institutional settings used in the Nordic countries. Taking into account the different legislation rules and procedures, in many steps of the obstacle management there is no formal procedure prescribed. As a result, it minimises or eliminates unnecessary red tapes and

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therefore assures a sense of independence and common responsibility among participating actors. Moreover, the procedure is designed to include both the technocratic, expert-oriented tasks as well as political, power-oriented actions that assure legitimisation of these actions and management of right obstacles in a right way. Special attention is given to navigation of roles of various actors, and coordination instruments such as the border obstacle database.

In terms of the applicability of the Nordic model within the V4 countries, it is obvious that beside the diverse public administration systems and legislative background, there is also a completely different socio-economic, cultural and political atmosphere in the two regions. In addition, the history, the desire and the capacity to cooperate both on cross-border and on regional levels seem to meet a lower standard than in the Nordic region which makes the adoption of the model extremely challenging. However regardless of the wide range of challenges, experiences persuaded the project partners, it is worth continuing the work and preparing the proposal following the Nordic example.

## 2.5 Proposed structure and functioning of the intergovernmental mechanism

### 2.5.1 Alternative models

The Visegrad Group wishes to contribute to building the European security architecture based on effective, functionally complementary and mutually reinforcing cooperation and coordination within existing European and transatlantic institutions. All the activities of the Visegrad Group are aimed at strengthening stability in the Central European region. The participating countries perceive their cooperation as a challenge and its success as the best proof of their ability to be integrated also into larger structures such as the European Union. Nowadays, it is considered as an (the) emblematic Central European regional political, economic and cultural cooperation scheme.

In V4 countries the opening of the borders in the 1990s (system transformation) then later in 2004 (EU accession) and 2007 (joining the Schengen zone) gave the chance for more integrated cooperation. Initiatives for sub-regional cooperation were thus welcomed as complementary to the overall aim of broader regional integration. The frameworks created by the EU facilitates the further strengthening of this cooperation – e.g. in the field of elimination of still persisting legal and administrative obstacles.

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Concerning the main purpose of the current project and the current study, three different solutions can be identified representing three different levels of institutionalisation.

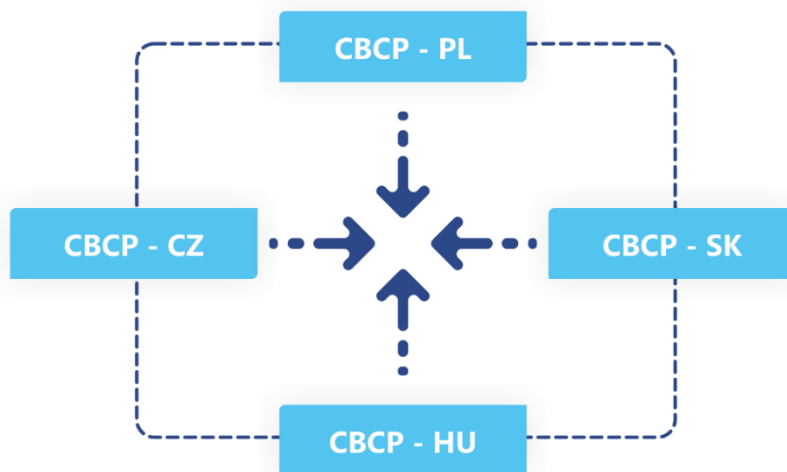
- ❖ The first model is that of an **international agreement** focussing on mutual cross-border legal accessibility. The model does not result in the set-up of new organs or institutions: the agreement creates the framework or the platform for consultative cooperation of the future CBCPs on a bi- and multilateral basis.
- ❖ More stable form is if the cooperating parties establish a **new V4 organ** similar to the existing groups. This way, the V4 Mobility Forum could be set up involving the national CBCPs who work together in a multilateral and regular basis. This solution is closer to the Nordic model but without further new institutions.
- ❖ The most institutionalised model is to create the **overall institutional background** of a tighter and more coordinated cooperation between the V4 countries facilitating the sound coordination of obstacle management in each state. At the moment, those organs and institutions existing in the Nordic states are missing at V4 level since the intensity of the cooperation has not reached yet the same level. However, the establishment of the V4 Mobility Council can be considered as a good excuse to create a more comprehensive system.

In each case, the key office-holders will be the future CBCPs from the Ministry of Foreign Affairs in Poland and the Czechia, the Ministry of Foreign and European Affairs in Slovakia, and the Ministry of Foreign Affairs and Trade in Hungary, respectively.

In the followings, we present all three models in more details and make a benchmark in order to specify the potential solution.

### **Consultative cooperation**

Figure 3: The model of consultative cooperation



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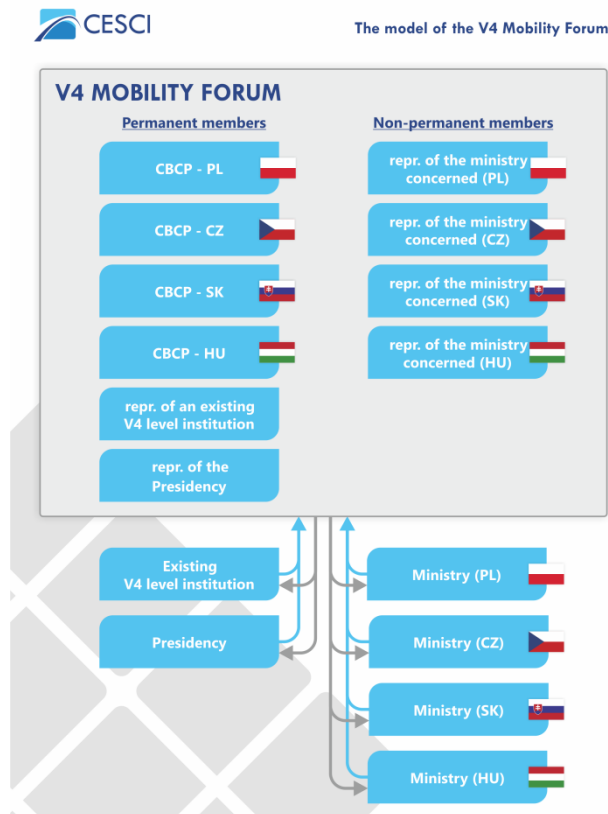
The simplest model may be based on an international agreement signed by the four governments. The agreement should stipulate the responsible actors from all 4 countries and the procedures of mutual obstacle management. Taking into account that the mandatory ECBM regulation foresees the identification of national level cross-border contact points (CBCPs), the agreement would not be much more else but a confirmation of cooperation prescribed by Community Law with a special territorial focus on the internal V4 borders.

According to this first model, the CBCPs shall create the platform of regular transfer of experiences on the field of implementation of the regulation but they do not establish a new institution. The obstacles identified according to the European mechanism should be eliminated at a bilateral level. However, the V4 countries still could develop an information and database of the obstacles and the management thereof for the sake of knowledge transfer.

The main advantage of this solution consists of its flexibility. There is no need for establishing and financing new institutions and the system can easily be managed and coordinated. At the same time, this solution can strengthen the internal cohesion of the V4 countries and facilitate internal mobility of people.

**The V4 Mobility Forum**

Figure 4: The model of the V4 Mobility Forum



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The second model is more advanced from the perspective of institutionalisation. According to this model, the CBCPs of the 4 countries establish a new group similar to the existing ones. Since the name of "mobility group" can create connotations with automotive industry or public transportation, the "forum" name is rather recommended.

The Forum would be a permanent organ of the V4 cooperation operating based on international law. The members of the forum should include

- ❖ the CBCPs of the four countries,
- ❖ the representative of the rotating Presidency,
- ❖ the representative of the Secretariat of the International Visegrad Fund and
- ❖ the representatives of the ministries whose portfolio is affected by the obstacles to be eliminated (as ad-hoc invited partners).

The administration of the Forum could be carried-out by a Secretariat which ideally would be established within the framework of one of the already existing V4 institution.

The Forum follows the operation of the Freedom of Movement Council of the Nordic states: it drafts an annual plan for obstacle management at its first meeting at the beginning of each calendar year. At the annual regular meetings (2 to 4 times a year), the Forum deals with the obstacles in a systematic way, classifying the obstacles by sectors and status (according to the Nordic model, there are four different colours representing four different states of obstacle management<sup>29</sup>) and drafting reports at the end of each year on the achievements.

Successful operation of the Forum is impossible without an international agreement signed by the V4 countries which ensures that the governments are committed to eliminate the identified border obstacles and for this purpose they provide adequate human resources and procedures. Hence, the decisions made by the Forum can give an effect on the national legislations or administrative procedures of the countries concerned.

The Secretariat plays the role of the coordinating body. Its competences and duties include

- ❖ the collection of examples of obstacles from the ground (local stakeholders, regional and cross-border institutions),
- ❖ the preparation, administration and documentation of the meetings of the Forum,
- ❖ regular communication with the members of the Forum,

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29 See the study on the Nordic model: „In order to make the analysis of the obstacles more clear and transparent, the members of the FMC graded its work with the prioritised obstacles according to a colour scale with four levels. Blue means that a final response has come from concerned ministry. The headline indicates, if the obstacle has already been solved or whether the countries decided to write off the barrier and not to work further to find the solution. Green means that the work will continue after the process when respective member set up to get a final answer of respective body, whether it is possible to resolve the obstacle or not. Yellow means that there's actually some kind of work going on with the barrier at the relevant ministries. Lastly, the red colour means that the obstacle is not currently prioritised by respective ministries or other authorities of the member states.” (Dr Giertl A et alii: Analysis of the Nordic model. Study on the Nordic Council, 43-44. [http://legalaccess.cesci-net.eu/wp-content/uploads/2018/08/V4\\_NC\\_study\\_CESCI\\_1.3.pdf](http://legalaccess.cesci-net.eu/wp-content/uploads/2018/08/V4_NC_study_CESCI_1.3.pdf))

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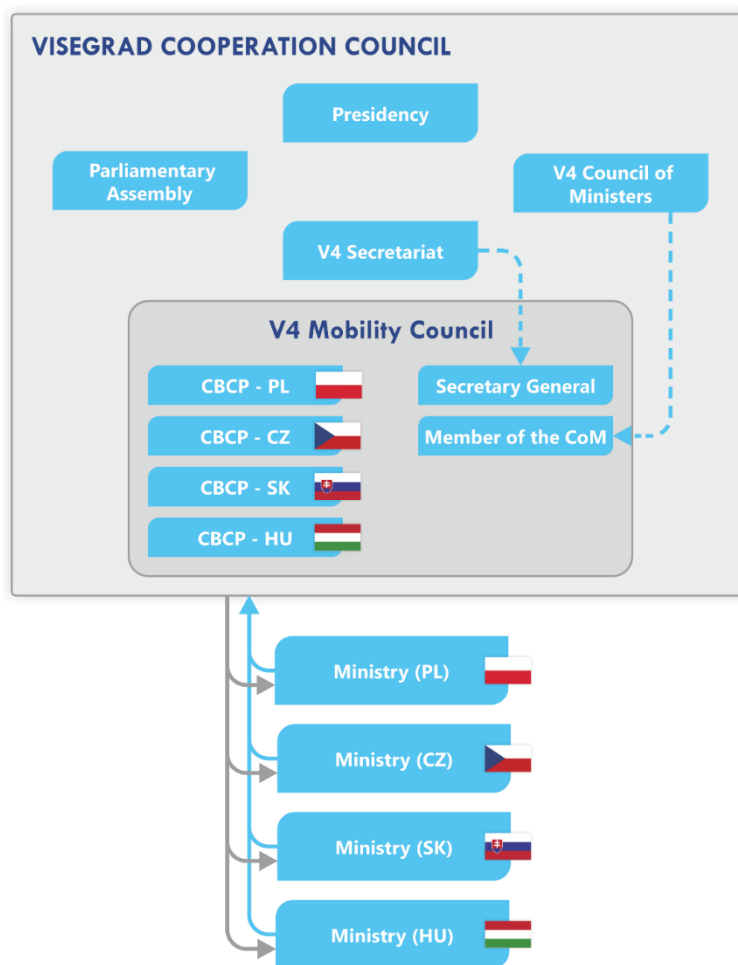
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- ❖ drafting the annual plan and the annual report based on the decisions made by the Forum,
- ❖ registering the obstacles (database) and the way of their elimination,
- ❖ collection of good practices of obstacle elimination with a view to feeding into the V4 level obstacle management.

The main advantage of the solution is that it guarantees systematic processes and remarkably strengthens the integration of the V4 countries without creating new institutional system: the new Forum matches the existing V4 level solutions while the administrative body of the Forum is an operating V4 institution. It is a quite economic solution with remarkable effects on further integration.

**Comprehensive institutional system and the V4 Mobility Council**

Figure 5: The model of the V4 Mobility Council



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Referring to the cooperation models listed above, the last one is more ambitious than the former ones since it aims at creating the comprehensive structure of V4 cooperation – similar to the Nordic model.

According to the proposed model, the Visegrad Cooperation Council shall be the official body for intergovernmental cooperation between the Visegrad countries. The legal framework of cooperation should be based on an international agreement to be signed and ratified by the national parliaments.

The establishment of the Visegrad Cooperation Council is proposed to be formalized by a Statute providing the frames for cooperation in the legal, political, cultural, social and economic fields. The parties should hold joint consultations on matters of common interest which are dealt with by European and other international organisations.

The organs of the Visegrad Cooperation Council relevant in terms of the border obstacle management shall be:

- ❖ the Presidency
- ❖ the Parliamentary Assembly
- ❖ the Council of Ministers for Visegrad cooperation
- ❖ the Secretariat
- ❖ the Visegrad 4 Mobility Council.

### *The Presidency*

In harmony with the existing system, the Presidency of the Visegrad Cooperation Council rotates between the four countries and lasts for a period of one year. The Presidency is represented by the prime minister who has the formal responsibility for coordinating the intergovernmental Visegrad cooperation. The country holding the Presidency draws up an annual work programme in which the political priorities for cooperation during the year to come are presented.

The country which holds the Presidency also holds the chair for the V4 Prime ministers' meetings throughout the year.

### *The Visegrad Parliamentary Assembly*

The inter-parliamentary consultative body would be formed for the purpose of consultation among *national parliaments* of the V4 countries. The members and deputy members of the Parliamentary Assembly are delegated by the national parliaments from among their own members, proportionally representing the parties having parliamentary groups. All member

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countries shall delegate 10-15 members regardless of the population size of the given country. This size would enable effective plenary work.

In the case of bicameral legislatures it is up to the given member country to decide whether it delegates from which chamber or from both. Though, for politically proportional representation it is more advantageous to delegate from only one chamber; if both chambers send members, smaller parties can be excluded from the cooperation.

The organ of the Parliamentary Assembly provides the possibility for political interaction between the members of the legislatures of the Member States, consulting suggestions made by the Presidency and the Mobility Council and making suggestions to the Presidency. The professional work of the Assembly is carried out in standing committees dedicated to obstacle identification.

The Parliamentary Assembly enhances the Visegrad cooperation by the fact that the task of informing the national legislatures doesn't fall exclusively to the national governments but there are members familiar with Visegrad issues in the parliamentary groups which helps the flow of information and the preparedness.

#### *The Council of Ministers for Visegrad cooperation*

In the Council of Ministers for Visegrad Cooperation all countries shall be represented, since it shall play the role of the political leadership of the Visegrad Council and the highest decision-making body beside the Parliamentary Assembly.

The Council of Ministers shall consist of the President from the country holding the rotating Presidency, a Vice-president and the representatives of the ministers of the 4 thematic fields already existing at V4 cooperation level: the ministers of foreign affairs, the ministers responsible for law-making, the ministers responsible for defence and security, and the ministers responsible for economy from all countries.

The Council of Ministers should play a leading role in intergovernmental cooperation and make policy decisions. Based on the annual work plans of the rotating presidencies, the ministers for cooperation should be responsible for elaborating an action plan based on the annual work programs of the rotating presidencies as well as maintaining contacts with the national parliaments, adjacent areas and relevant international organisations. The action plan should be implemented by professional working groups.

Decisions are reached by consensus and must be unanimous to be implemented. The Council of Ministers is quorate when at least half of its members are present. In matters on which only certain countries are entitled to vote under the terms of the Statute, at least half of the representatives from these countries must be present.

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### *The Secretariat*

The administrative duties are undertaken by the Secretariat having own employees from all 4 countries and led by the Secretary General. The task of the Secretariat is to support the work of the particular organs in administrative terms and provide the non-political representation of the Council of Ministers for Visegrad Cooperation to third parties: media, researchers, intergovernmental organizations, non-governmental organizations, interested citizens. To this end, it is important to actively maintain a multilingual webpage in the official languages of the member countries and at least in English.

In addition, similarly to the Nordic model, the Secretariat should take part in the legal accessibility work by registering the obstacles coming from the ground in a well-defined and unified structure in order to prepare the professional group of the V4 Mobility Council. For being able to meet these needs employees must dedicated to be in charge of the above mentioned tasks.

### *V4 Mobility Council*

The V4 Mobility Council, similarly to existing groups and working groups of the Visegrad cooperation, shall be the platform of cross-border obstacle management on professional level. The group's aim would be to eliminate the border obstacles with legal and administrative nature, to prevent new border obstacles to occur and to promote the permeability of borders within the region.

Similarly to the Nordic model, the members of the V4 Mobility Council should be the CBCPs, the Secretary General and a representative of the Council of Ministers. It is very important to note that the national members of the groups should be such senior civil servants who have the appropriate network and experiences for efficiently influencing the national policy-making and legislative processes. In addition, adequate instruments for their work must be provided by the concerned government and ministry.

The lead of the council shall lie among the concerned national representatives of the governments and be rotating annually, in line with the Presidency of the Nordic Council of Ministers.

The group shall cooperate with those actors both on local and national level who can contribute to the elimination of border obstacles:

- ❖ the thematic groups and working groups of the Visegrad cooperation: since the thematic scope of already existing working groups is not too wide, it is expected that while deepening the cooperation, the number of the targeted policy areas will be extended step-by-step;

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- ❖ ministries and national public administration bodies: civil servants from the concerned and thematically relevant ministries of the four countries, who have the professional capacity and competence for performing the legal harmonisation measures on national level;
- ❖ the national organs responsible for monitoring the legislation process in order to provide the harmony with international, EU and national law: the Government Legislation Center of Poland, the Government Legislative Council in the Czechia, the Legislative Council in Slovakia and an intra-Parliamentary Committee in Hungary;
- ❖ local, regional cross-border structures: border obstacles are to be identified and reported by the local and regional partners, which in case of the Visegrad countries should be the already existing EGTCs and euroregions, regional and local municipalities along the V4 borders. At the same time the possibility of reporting cross-border obstacles must be given to ordinary border people.

### *Procedures*

According to this last model, the obstacles are identified and reported by local actors to the Secretariat. The Secretariat collects, stores and analyses the obstacles and coordinates the work of the Mobility Council. The Council operates in the same way as it is described in the previous model. At the same time, the Council itself can set up thematic working groups so its competences are broader than in the second model.

The Mobility Council permanently communicates with the Parliamentary Assembly and the Council of Ministers in order to facilitate the national level elimination of the obstacles. The Assembly and the Council of Ministers are the forums of consultation on obstacle management processes while the national ministries are responsible for the gradual elimination of the identified obstacles. The procedure is supported by an on-line database of barriers and is followed and monitored by the Mobility Council based on annual reports. The reports are drafted by the Secretariat and it has to refer the annual plan adopted by the Mobility Council.

The advantage of this model is the versatile and multi-sided cooperation that creates multi-layered mechanisms and strengthened integration at V4 level. This is also optimal for being integrated in the cooperation at EU level and helps cooperation with the Nordic Council/Nordic Council of Ministers and the Baltic Assembly. At the same time, this model has high financial needs and smaller flexibility, though permanent structures do not prevent ad-hoc solutions.

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## 2.5.2 Benchmark

It is important to note, that none of the suggestions intend to violate national sovereignty or decision-making power to the new cooperation structure. Obviously, the most advanced structure would be created within the framework of the third model including the set-up of brand new V4 level organs and bodies.

When comparing the models, the following criteria have been taken into account:

### 1) Questions of principle

- ❖ *integrating force*: how the model facilitates the strengthening of the integration of the V4 countries;
- ❖ *maturity*: the difference between the model and the current average level of integration – the index refers to the maturity of the V4 cooperation to the adaptation of the concerned model;
- ❖ *legitimacy*: the relationship of the model and the political support of the V4 cooperation – taking into account the political commitment of the V4 countries to the regional cooperation, the index reflects on the potential acceptance (popularity) of the given model by the 4 governments;
- ❖ *capacity*: capability of the model to ease cross-border mobility: the index reflects the potential impacts of the model on obstacle elimination;
- ❖ *forcing power*: the power of the model to launch and conclude legal procedures in each country: the index describes the political power represented by the solution.

### 2) Set-up burdens

- ❖ *time scale*: the time span necessary for the establishment of the structure (taking into account also the procedures set-out by the ECBM regulation) – the values of the index should indicate the time scale of the establishment of the three models so that it awards shorter period of time;
- ❖ *simplicity*: in which level makes the model necessary the creation of brand new structures / in which level builds the model upon existing structures; the higher values are given to simpler models.

### 3) Operational factors

- ❖ *operability*: at which level the model is operable – the factor refers to the burdens related to the smooth operation of the model; the index awards easier solution with higher scores;

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- ❖ *financial ease*: how expensive is the operation of the model; the cheaper is the solution, the higher is the value.

For the purpose of the benchmark we applied a four-score Likert scale where 1 means the weakest and 4 means the strongest value. The results represent the average value of the score given to the three models respectively along by the above criteria.

*Table 6: Benchmark table of the three models*

	<b>Consultative model</b>	<b>Mobility Forum</b>	<b>Mobility Council</b>
<i>Questions of principle</i>			
integrating force	1	3	4
maturity test	4	3	1
legitimacy	3	3	1
capacity	1	3	4
forcing power	1	3	4
<i>Set-up burdens</i>			
time factor	4	3	1
simplicity	4	3	1
<i>Operational factors</i>			
operability	4	2	1
financial ease	4	2	1
<b>AVERAGE</b>	<b>2,89</b>	<b>2,78</b>	<b>2</b>

Not surprisingly, based on the results of the above benchmark, the most favourable solution is the simplest one. Taking into account the maturity of the V4 cooperation, the reserved position of the four governments regarding the financing and application of new institutions and the concerns related to cross-border legal accessibility (i.e. the ECBM tool), the simplest way of enhancing cooperation in this field would be the consultative solution.

At the same time, as it can be seen in the table, there is no significant difference between the first and second models. The set-up of the V4 Mobility Forum would not mean burdens impossible to overcome: the solution is matched with the current system of V4 cooperation, it builds upon existing and easily settable new organs, furthermore, it does not create heavy financial burdens. At the same time, the model has much stronger integrating effect than the consultative body.

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Obviously, the third model is the most burdensome and it requires the longest time and the biggest resources. In parallel, this model would have the strongest influence on the long-term Visegrad cooperation: by the creation of further organs, as a kind of spin-off effect, it would broaden the institutional scope serving further fields of V4 alliance.

The three models can also be considered as **an evolution process** in the way of stronger integration: while the consultative model can be launched anytime, the building up of the comprehensive institutional system requires time and financial resources, as well as, much stronger commitment on behalf of the four governments to integration. The Mobility Forum represents an intermediate solution requiring further efforts but not creating new models for cooperation. Therefore, the V4 countries can make the decision to start with the consultative model, continuing on with the Forum, finally developing the comprehensive institutional system.

## 2.6 Coordination and communication mechanisms

### 2.6.1 The bodies, organs and institutions to be involved in obstacle management

Based on the above analyses, the following summary can be provided on the stakeholders and roles of a potential V4 level mechanism.

- ❖ Conference of Ministers of Foreign Affairs (V4 level body): active participation in the preparation and setting-up of the new mechanism, facilitating the national level commitment.
- ❖ The governmental institutions responsible for coordination of V4 level cooperation (the *Ministry of Foreign Affairs* and the *Office of the Government* in the Czechia, the *Visegrad Cooperation and Central European Department of the Ministry of Foreign Affairs and Trade* in Hungary, the *European Policy Department of the Ministry of Foreign Affairs* and the *National Coordinator of the V4 Cooperation* in Poland, the *Ministry of Foreign and European Affairs* and the *Conference of Ministers of Foreign Affairs* in Slovakia): active participation in the preparation and setting-up of the new mechanism and its administrative and financial background.
- ❖ The different Ministries of the four countries: participation in the shaping of the content of the legal solution, drafting of the legislative proposals / amendments of an existing law eliminating the identified obstacle, administration of law-making procedure, execution of the Parliament bill.

- ❖ The Ministries responsible for handling cross-border administrative obstacles and the adaptation of the ECBM Regulation (Czechia: *Ministry of Regional Development*, Hungary: *Ministry of Foreign Affairs and Trade*, Poland: *Ministry of Investment and Development*, Slovakia: *Ministry of Foreign and European Affairs*): coordination of the V4 level institutionalisation of the ECBM Regulation, setting-up of the CBCPs which may become the main factors of the obstacle management with coordination and monitoring competences.
- ❖ The legislation preparation and monitoring institutions of the four countries (the *Government Legislative Council* of the Czechia, the *Intra-Parliamentary Committee* of Hungary, *Government Center for Legislation* of Poland and the *Legislative Council* in Slovakia): legal harmonisation process of the new draft provisions, joint elaboration of the analysis, participation in the development of the annual plan and the report.
- ❖ Legislative bodies of the four countries (the *Chamber of Deputies* and the *Senate* of Czechia, the *National Assembly* of Hungary, the *Sejm* and the *Senate* of Poland, the *National Council* of Slovakia): finalisation and adoption of legal provisions drafted by the relevant Ministries.
- ❖ Regional self-governmental bodies, cross-border structures (euroregions, EGTCs, cross-border institutions, partnerships, twin-cities, local people): identification of the obstacles and reporting of them to the CBCPs.
- ❖ Secretariat: participation in the setting-up of the new mechanism and provision of the administrative background for its operation; drafting of annual plans, coordination of the analyses, drafting of the annual reports together with the members of the Mobility Forum / Council, maintenance of the V4 level obstacle database.

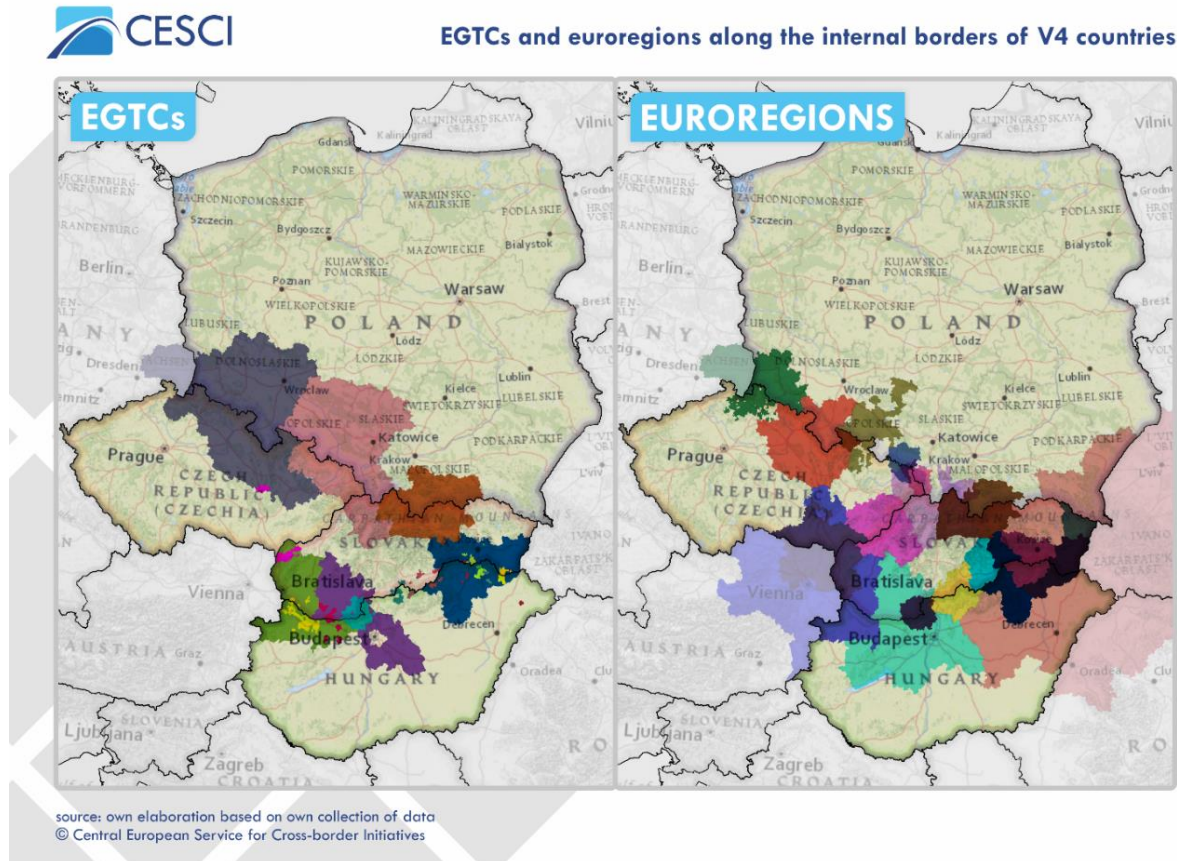
In terms of coordination and communication, the following stakeholders have key position and role:

- ❖ local municipalities, regional municipalities, cross-border structures and institutions, local people living in borderlands (the stakeholder group affected the most, missing adequate legal, administrative and financial capacities for tackling the problems caused by the obstacles): identification of the obstacles, active involvement in obstacle management;
- ❖ consultative forum of the CBCPs, Mobility Forum, Mobility Council (according to the three different models): identification of the solutions, coordination and monitoring of the national level obstacle management;
- ❖ institutions responsible for legal harmonisation: analysis of the proposed solutions, coordination of the law-making process at national level;
- ❖ relevant Ministries: drafting of the legislative proposals, execution of the adopted bills.

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Map 1: EGTCs and euroregions along the internal borders of V4 countries



## 2.6.2 Coordination and communication of the different models

Concerning the concrete coordination and communication measures, the three models represent different solutions.

### **Consultative model**

In the case of the first model, the coordination and communication mechanisms do not require complicated frameworks since this solution is about consultation. The four CBCPs can communicate regularly or in an ad-hoc way linked to special topics occurred. It is recommended to launch an on-line platform collecting typical border obstacles and experiences with the ECBM tool. The experiences can be tabled to the actual Presidency to be discussed at V4 level.

### **The model of the Mobility Forum**

In the case of the second model, the following work-phases can be differentiated: planning, analysis, proposal, amendments, monitoring.

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The planning phase starts with the identification of the obstacles to be eliminated. Based on the information shared by the local stakeholders or other resources, the Secretariat prepares a long-list on the obstacles from among which the members of the Forum creates a short-list.

The analytical phase involves the legal experts and legal institutions of the four governments<sup>30</sup> and the Secretariat coordinating the analytical work. The main purpose of this phase is to unfold the legislative background of the potential amendments of national laws.

The national level proposals are drafted based on the results of the analysis. The Mobility Forum decides on the content of the amendment which has to be adapted to the different national contexts.

The proposal forms the basis for those new national legislations adopted by the national parliaments or decrees drafted by the governments.

The Mobility Forum monitors the process and publishes the achievements and the shortages in an annual report. The Forum has no competences to adopt legally binding resolutions but it has the possibility to communicate with the member states on the reasons of missing amendments and if necessary, it can provide technical support.

The detailed procedures shall be similar to those drafted in the following subchapter.

### ***The model of the Mobility Council***

The third model requires the application of the most complicated procedures.

The main annual meeting point of the organs of the Visegrad Cooperation Council should be the so-called annual ordinary session, to be held in June, in the country holding the presidency of the Council. The sessions are the unique forums where politicians, the members of the Parliamentary Assembly discuss V4 issues with the Prime Ministers and other ministers. They all take part in the debates on the actual and relevant issues for V4 cooperation, but the right to vote and hereby to decide is restricted to the parliamentary members.

These sessions are also the forums where

- ❖ the ministers concerned with V4 cooperation give a report on their areas;
- ❖ the Council of Ministers of V4 cooperation submits the annual report on their last year's activity including the topic of cross-border obstacle management; in addition an account of the plans for future cooperation;
- ❖ the Prime Ministers present their work programme on Visegrad intergovernmental cooperation for the upcoming year. The prime minister for the country which will

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30 The Government Legislation Center of Poland, the Government Legislative Council in the Czech Republic, the Legislative Council in Slovakia and an intra-Parliamentary Committee in Hungary.

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hold the presidency of the intergovernmental cooperation in the following year is responsible for this report.

Non-ordinary session may be held based on the agreements made during the ordinary sessions.

Official and regular meeting times of the particular organs of the Visegrad Cooperation Council:

- ❖ the Presidency meets once a year within the framework of V4 summits which shall be organized in the country holding the Presidency during the wintertime;
- ❖ the Parliamentary Assembly meets during the sessions at least on an annual basis;
- ❖ the Council of Ministers for Visegrad Cooperation shall meet on a 4 month basis in the light of the actual cooperation issues,
- ❖ the V4 Mobility Council shall coordinate and monitor the legal accessibility process through the meetings held maybe 5-6 times during a year.

Regarding the obstacle management process the following information and communication mechanisms should be established.

- ❖ The EGTCs and euroregions concerned with the task of collecting legal and administrative obstacles from the ground shall regularly report towards the Secretariat. It would be practical to establish a short, standardised digital form where the obstacles occurred shall be described and submitted.
- ❖ As next step the dedicated staff of the Secretariat shall analyse the submitted obstacles and register them in a database in a manner ensuring all relevant details for the decision-making of the V4 Mobility Council. There is an already existing legislation database managed by the Government Legislation Center of Poland, which could be a useful and further developed platform for the establishment of the V4 legal harmonisation database providing the list and description of the already mapped obstacles and the current status of legislation procedure with all updates.
- ❖ Based on the database managed by the Secretariat, the V4 Mobility Council decides on the list of obstacles to be addressed and eliminated on an annual basis in line with the annual work programme of the Presidency and the action plan of the Council of Ministers of the Visegrad cooperation. Then the national members launch the legal harmonisation procedure by addressing and involving the concerned members of public administration systems. The way of communication during their work should be as flexible as possible. The V4 structure and their governments

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should provide them capacity and resources to establish ad-hoc intergovernmental task forces in order to find a solution for handling the particular obstacles.

- ❖ The national members of the V4 Mobility Council shall report on their activities during the official group meetings.
- ❖ At the end of each working year the V4 Mobility Council submits an annual report to the Council of Ministers for the V4 cooperation in order to present the results and the progress made during the given period of time.

All parts of the workflow, and the information and cooperation mechanisms related to the border obstacle management are going to be detailed and described in the 'Information and cooperation Handbook' to be published within the framework of the next project implementation phase.

## 2.7 Financing

Regarding the possibilities of financing the proposed intergovernmental and local, regional level structures and cooperation, it would worth involving and integrating different kind of financial resources including EU, V4, regional and national ones as well.

The Commissioner for Regional Policy of the European Union launched the Cross-border Review<sup>31</sup> initiative in 2015 which resulted in a financial instrument called B-solutions<sup>32</sup> this year. The pilot programme promoted by the European Commission's Directorate-General for Regional and Urban Policy aims to finance actions testing solutions to cross-border obstacles in five thematic fields including institutional cooperation. It offers financial support to soft actions such as bi- or multilateral meetings, preparatory and feasibility documents therefore it would be an appropriate resource for preparing one of the proposed institutional structures. However the selection of the first round projects have already been performed, it is expected that the call for proposals will be opened again.

Another option of financing coming from the EU level could be the INTERREG V-A programmes<sup>33</sup> which support cross-border cooperation between 2 Member States. At the moment four programmes<sup>34</sup> (SK-HU, SK-CZ, PL-CZ, PL-SK) target the V4 internal borders,

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<sup>31</sup> [https://ec.europa.eu/regional\\_policy/en/policy/cooperation/european-territorial/cross-border/review/](https://ec.europa.eu/regional_policy/en/policy/cooperation/european-territorial/cross-border/review/)

<sup>32</sup> <https://www.b-solutionsproject.com/>

<sup>33</sup> <https://interreg.eu/>

<sup>34</sup> Interreg V-A - Czech Republic-Poland

Interreg V-A - Poland-Slovakia

Interreg V-A - Slovakia-Czech Republic

Interreg V-A - Slovakia-Hungary

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which could be used for financially support the preparation of the local and regional offices responsible for collecting and registering the obstacles identified on the ground or the establishment of the database of cross-border obstacles. According to the draft ETC regulation, there are plans for dedicating financial resources from the programmes' budget to the elimination of border obstacles during the next programming period (2021-2027).<sup>35</sup>

Regarding the financing options on V4 level two scenarios can be considered. The first one concerns the budget of the International Visegrad Fund, as the only V4 institution having separate financial framework. The Fund is financed by the equal contributions of the four member countries and other donor states such as Switzerland, South Korea and the Netherlands.<sup>36</sup> The major proportion of the Fund's budget (cca. 85%) covers the grant and mobility programs (offering financial support for local actors and individuals) which could be used as ad-hoc source for the legal accessibility initiatives, but it also finances cooperation products such as the Visegrad Insight, the International Visegrad Prize, and structures (the Visegrad Think Tank) and institutions like the International Visegrad Fund Secretariat on an annual basis.<sup>37</sup> In light of these, financing of the proposed mobility council could be performed through the adequately increased budget of the International Visegrad Fund. At this point, it is not possible to define the exact amount of the necessary increase.

The other simple and logical option for financing the new intergovernmental body and its activities is to establish a separate scheme based on national contributions, similarly to that of the Nordic one for eliminating border obstacles. The basis for defining the amount of the national contributions could be e.g. the GDP, the population living in the concerned border areas, or further indicators to be acceptable for the governments.

The third main type of the financial resources to be applied is the national, public funding. Some parts of the legal accessibility mechanism, such as information gathering and registering, harmonisation of national laws and regulations concerns the local, regional or national actors separately in the particular countries. Therefore these kind of activities, similarly e.g. to the patent issues of V4 level, may be financed separately by the member countries by offering additional financial resources together with the extra tasks to the concerned ministries or public administration departments. In the case of Hungary, there exists already a separate grant scheme for the European Groupings of Territorial Cooperation (EGTCs) operated by the Ministry of Foreign Affairs and Trade which offers financial support to the everyday operation of these cross-border structures.

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35 ECBM Regulation: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2018%3A373%3AFIN>

36 Visegrad Fund = 15!: [https://s3.eu-central-1.amazonaws.com/uploads.mangoweb.org/shared-prod/visegradfund.org/uploads/2018/01/ivf\\_Visegrad-Fund15.pdf](https://s3.eu-central-1.amazonaws.com/uploads.mangoweb.org/shared-prod/visegradfund.org/uploads/2018/01/ivf_Visegrad-Fund15.pdf)

37 Budget of the International Visegrad Fund: <http://old.visegradfund.org/about/budget/>

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*Table 7: Summary table of the phases of the legal accessibility mechanism and relevant financial resources*

Phase	Funding sources				
	European Union		V4 regional		National
	EU: central	EU: INTERREG	International Visegrad Fund	Separate fund	
Setting-up of the local/regional structures	x	x	x	x	x
Establishment of the CB obstacle database		x	x	x	
Identification and registration of obstacles					x
Prioritisation and elimination of obstacles on V4 level			x	x	
Legal harmonisation on national level					x

To sum up, some ad-hoc EU and V4 project funds can be involved in the preparation and establishment of the institutional and technical background of the legal accessibility initiative, however the operation and maintenance of these bodies and structures is the responsibility of the Visegrad Group together through joint fund(s) and the member countries through domestic funding.

In order to get a clear picture on the financial needs of the preparation and operation of the intergovernmental system a more detailed analysis should be delivered both on (macro-) regional and national level.

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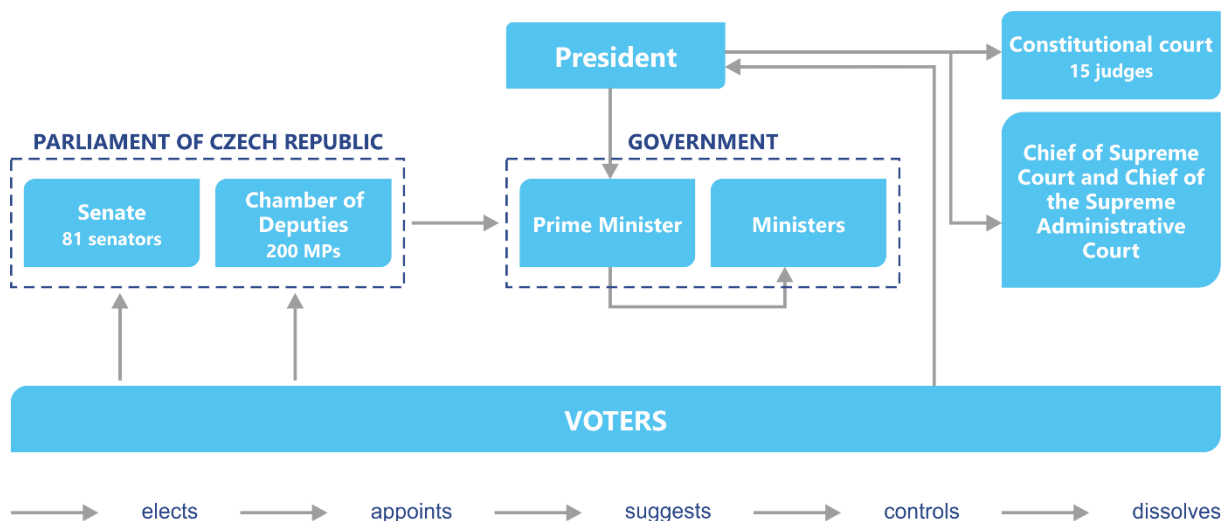
### 3. ANNEX I. Analysis of the public policy making methods of the V4 countries

#### 3.1 Czechia

##### 3.1.1 Political structure

The governmental system of the Czechia takes the form of a parliamentary democracy. The Constitution of the Czechia proclaims it as a unitary state divided into fourteen administrative regions.

Figure 6: Political structure of the Czechia



##### Legislative system

Legislative power in the Czechia is vested in a bicameral Parliament. The Parliament consists in two chambers, the Senate and the Chamber of Deputies.

The Senate is constituted of 81 seats, with members elected by popular vote for six-year terms and one third of the total number of Senators are elected every two years. Elections to the Senate are held by secret ballot on the basis of universal, equal and direct suffrage, pursuant to the principles of the majority system [Art 18 (2) Constitution].

The Chamber of Deputies is made up of 200 seats, with members elected for four-year terms. Elections to the Chamber of Deputies are held by secret ballot on the basis of universal, equal

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and direct suffrage and pursuant to the principles of proportional representation [Art. 18(1) Constitution].

### ***Executive power***

The President is elected for a term of five years, since 2013 by direct voting based on two-rounds majority system. The President may hold office for a maximum of two successive terms. The powers of the President include the appointment and recalling of the Prime Minister and other members of the Government as well as the acceptance of their resignations. The Government is held accountable to the Chamber of Deputies. The President appoints the Prime Minister and, pursuant to his suggestion, appoints other members of the Government. The adoption of any Government resolution requires the obtainment of an absolute majority of votes, as the Government makes decisions as one body. In order to implement law, within the scope of its authority, the Government has the right to issue decrees.

The supreme organ of executive power is the Government, acting as a collective entity. It is comprised of the Prime-minister, Deputy Prime Ministers and Ministers. „The Constitution provides a basic framework for cabinet decision-making; the Constitution stipulates that the cabinet makes decisions collectively and that in order to adopt a resolution, it is necessary to secure a majority support of the cabinet. The Constitution demands that the Cabinet makes decisions on individual proposals through a collective vote and does not give the Prime Minister any prerogatives in this respect.” (Kabele and Linek 2004: 6)

### ***Regional administration***

*Figure 7: Regions of the Czechia*



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The Constitution of the Czechia of 1992 provided for the establishment of a two-tier self-government system represented by the municipalities and regions. Despite the fact that the Constitution provided for the establishment of self-government on the regional level, its formation was continually delayed. The Czech governments realized however, that regions have to be established if the state was to be accepted in the European Union; in 2000 the regional self-government was eventually formed. Two years later the 13 Czech regions were joined by a special region – Prague.

The Czech local government system is highly fragmented: in 1989 there were 4101 municipalities (a municipality is the basic local government unit in the Czechia), while at present there are 6258 municipalities in the Czechia.

The other local government tier is represented by the regions; as mentioned, there are 14 of them (including the Prague region).

The capital of the Czechia – Prague (like most of European capital cities) has a special position in the Czech administrative system. Prague is divided into 57 districts, many of which previously used to be independent local governments that were joined with Prague. There are many separate offices for the various parts of the capital city, although formally Prague is one local government. The Prague local government is at the same time a territorial government and governmental administration.

*Table 8: Local government entities in the Czechia. Municipalities*

<b>Entity name / Factors of analysis</b>	<b>Municipal council (Obecní zastupitelstvo)</b>	<b>Municipal committee (Obecní rada), elected in municipalities with more than 15 councillors</b>	<b>Mayor (Mayora or Primátor), in municipalities with less than 15 councillors the mayor performs the tasks of a committee as well</b>
Way of election	Universal, equal, direct, secret and proportionate ballot	Elected by the council from among its members	Elected by the council from among its members
Numbers	5-55 councillors, depending on the population and the size of the municipality	5-11 members, not more than 1/3 of the number of councillors	1
Term of office	4 years	4 years	4 years
Competences	Legislative entity, elects the commission members	Executive entity comprising: the Mayor, a deputy, other members, it may form commissions; the committee may entrust the deputy with the performance of certain tasks of the Mayor	Prepares, presides and leads the committee sessions, is the head of the municipality office and implements tasks commissioned by the state authorities
Additional information		All citizens aged 18 and older have active and passive voting rights	

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*Table 9: Local government entities in the Czechia - Regions*

Entity name / Factors of analysis	Regional Assembly (Zastupitelstvo)	Regional Committee headed by a Chairperson (Hejtman) (Rada)
Way of election	Direct elections	Elected by the Assembly
Term of office	4 years	4 years
Competences	Supervises the budget and subsidies granted to the municipalities, may propose draft laws	An executive body
Additional information	Consists of a Chairperson (Hejtman), Deputy Chairperson and other members	

### ***Competences of the Municipalities***

The municipality administrates its matters independently – in the independent competence. The municipal bodies also perform state administration in cases specified by law. In these cases, it is spoken about performance of delegated powers – performance of state administration delegated on bodies of fundamental territorial self-governing units by the State on the basis of special laws.

Law through exemplary enumeration defines independent competence of municipalities and further in accordance with the local conditions and local customs, the municipality attends also to the fostering of conditions for the development of social care and to satisfaction of needs of its citizens. This includes, in particular, meeting the needs for housing, protection and development of health care, transport and communications, information, education and training, general cultural development, and protection of public order (Bureš 2004).

The municipal competences comprise in particular: management of the communal budget, local development, municipal guards, water distribution, building renovation, agriculture, pre-primary and primary schools, housing, social assistance, urban planning.

The so-called towns with a special status play a special role - currently there are 27 such towns (Brno, Chomutov, České Budějovice, Děčín, Frýdek-Místek, Havířov, Hradec Králové, Jablonec nad Nisou, Jihlava, Karlovy Vary, Karviná, Kladno, Liberec, Mladá Boleslav, Most, Olomouc, Opava, Ostrava, Pardubice, Plzeň, Prague, Prostějov, Přerov, Teplice, Třinec, Ústí nad Labem, Zlín). They have been granted extended competences due to their size, economic, social and cultural importance for the regions in which they are located.

### ***Competences of the Regions***

The region administers its matters independently. In case that the region is entrusted by performance of state administration, regional bodies perform it as their delegated competence/power. A region is obliged to ensure performance of delegated power in its administrative district. If a special law defines powers of regions and does not indicate the

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powers are delegated powers of region, the activities in question are always to be considered as a part of the independent competence of the region. As concerns relation between a municipality (a fundamental self-governing unit) and a region (a higher self-governing unit), there is no superiority or inferiority in this relation. As concerns territorial self-government, a municipality has a general competence.

The region is not subordinated to the governmental authorities in the area of independent competence. In carrying out its self-government, the region is bound only by the legal order, not by internal acts of the State. The State interference is possible only in case of break of constitutionality and legality.

In implementing the state administration, the bodies of the region are subordinate to the relevant ministry and have to respect even internal normative acts of these superordinate bodies.

Independent competence of the region is stipulated by the Act on Regions, which arranges into this sphere such matters, which are in interest of the region and its citizens, if it is not delegated competence of the region. Into independent competence belong pursuant to the Act:

- ❖ regional management,
- ❖ budget and final account of the region, monetary funds of the region,
- ❖ legal entities of the region and organisational bodies of the region and participation of a region in legal entities,
- ❖ personnel and material expenses on operation of the regional office and special bodies of the region, organisation, management, personnel and material arrangement of a regional office,
- ❖ **issuing generally binding regulations,**
- ❖ **submitting Bills to the Chamber of Deputies in compliance with law,**
- ❖ **submitting proposals to the Constitutional Court for the repeal of legislation, if it is believed that such legislation is in contrary to the law,**
- ❖ programming of regional development,
- ❖ approval of planning and zoning documents for the territory of the region and publishing the binding parts thereof as regional legislation,
- ❖ cooperation with other regions, participation in cohesion regions,
- ❖ **stipulation of the extent of basic transport services in the region,**
- ❖ **strategy of development of tourism industry,**
- ❖ imposition of penalties in independent competence etc.

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On the basis of special laws following competences belong to independent competence of a region:

- ❖ strategy of care for historical monuments, operating plans for reservation and reconstruction of historical monuments,
- ❖ arrangement of preparation for emergency situations, participation in conduct of rescue and liquidation works and in protection of population,
- ❖ secondary schools, technical training institutions, special primary schools, conservatories,
- ❖ regional institutions of social care, institutions for social-educational activities, institutions for professional consultancy for children, institutions for performance of foster care,
- ❖ establishment of healthcare institutions, ambulances, institutions for treatment of alcohol abusers, prevention of alcoholism and of other addictions,
- ❖ strategy of waste management of the region,
- ❖ participation in proceedings and evaluation of influences on the environment, elaboration of strategies for protection of nature, strategy for protection of air, etc.

Generally speaking, the regional government is responsible for the secondary schools (generally working with students aged 15 – 19), road networks, social assistance services, environment protection, public transport, regional development and health services.

### ***Associations of regions and municipalities***

The Czech regions and municipalities founded two respective bodies gathering them - Association of Regions and Association of Towns and Municipalities. Both these associations are based upon principles of European Charter of Local Self-Government.

Both forms have their committees for international cooperation, however there is no major accent on V4 aspect.

Since 1993, 60-70% of the communal revenues have come from various types of income taxes, as well as from other taxes and charges, communal bonds, the sale of communal property, bank loans, etc.

### **3.1.2 Legislative process**

#### ***Sources of law***

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The main legislative document is the Czech Constitution. Currently the Constitution of 1993 is in force (the constitutional Act No. 1/1993 Coll., the Constitution of the Czechia, as amended), it means the Constitution adopted at the birth of the Czechia as a sovereign state. This Constitution went through only a small number of amendments that did not affect its conception.

On the basis of the Constitution, the Czechia is a sovereign, unitary and democratic, law-abiding State based on respect for the rights and freedoms of a man and a citizen. In its first nine Articles are formulated basic principles of the constitutional arrangement. Pursuant to Article 9 (2) of the Constitution of the Czechia, the amendment of substantial requisites of the democratic, law-abiding State is inadmissible.

Fundamental rights and freedoms are specified in detail in the Charter of Fundamental Rights and Freedoms. This Charter fully reflects the International Pact on Civil and Political Rights and the International Pact on Economic, Social and Cultural Rights. The Charter of Fundamental Rights and Freedoms is a part of the Constitutional Order of the Czechia and it has the same status in legal order as the Constitution itself.

Relation of national and international law is defined in the Constitution of the Czechia in accordance with a principle of primacy of international law. On the basis of Article 10 of the Constitution, it is defined that published international treaties, ratification of which was approved by the Parliament, and by which the Czechia is bound, are part of the legal order. If the ratified international treaty sets something else than law of the Czechia, then the international treaty is applied.

***Legislation at national level***

According to the absolute legal force, the Czech legal order recognizes primary (statutory) regulations, such as constitutional laws, laws and statutory measures of the Senate, and secondary (subordinate) regulations which are immediately adopted under the Constitution on the basis of explicit legal authorization (legislation of ministries, administrative authorities and self-government bodies in delegated competence).

*Table 10: Bodies responsible for issuing legal binding acts in the Czechia*

Acts by legislative bodies	Acts by executive bodies					Acts by regional bodies	
Parliament	Government	Ministries	Cz. National Bank	Municipalities and regions in delegated competences	President	Municipalities	Regions

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Acts by legislative bodies	Acts by executive bodies					Acts by regional bodies	
Constitutional Laws	Regulations	Decree	Decree	Regulations	Some decision of specific natures – such as amnesty	Generally binding rules	Generally binding rules
Laws							
Senate legal measures							

The individual ministers/members of government are responsible for/allowed to initiating legal acts/laws within their competences. This is also the case for the need to comply with EU legislation. Once the certain EU-wide legal act is adopted by the EU institutions, the Office of Government of the Czechia/ EU liaisons section “attributes” the responsibility for a single legal act (in this case EU Regulation on a mechanism to resolve legal and administrative obstacles in a cross-border context) to a relevant ministry, which then decides about following action – most commonly on the amendment of existing legal act or proposing new one. This must afterwards go through the whole legislation process.

The legislative process is based upon the role of the lower chamber (Chamber of deputies) of the Czech Parliament. The following groups of actors are provided with the right to propose a bill/legal act in the country:

- ❖ a deputy of (lower chamber) parliament,
- ❖ a group of deputies,
- ❖ the Senate (Upper Chamber) of the Parliament,
- ❖ the Government,
- ❖ regional councils.

The following scheme shows how are the bills processed. It must be stressed that the lower chamber of parliament has the most important role in the whole mechanism, as it has the right to overvoted the eventual vetos of the President or the upper parliament chamber – the Senate.

### *Legislative process in the Parliament*

#### The Chambers of Deputies<sup>38</sup>

As said above, the Chamber of Deputies plays key role in the legislative process, all proposals for bills must be presented to it through its Chairperson who passes the material to the Steering Committee, all deputies and political groups of deputies. A rapporteur is assigned to

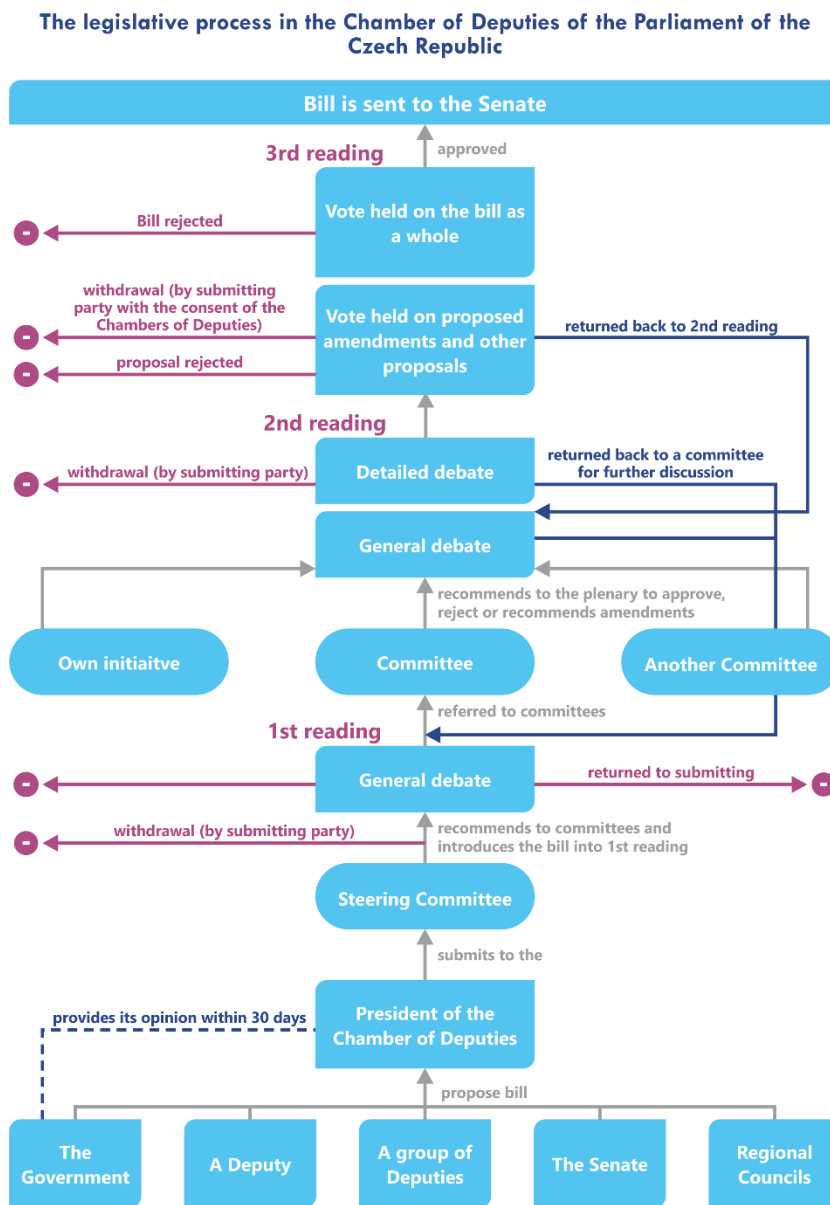
<sup>38</sup> [http://www.psp.cz/eknih/cdrom/ic/pdf/en/Legislative\\_ENG\\_05\\_2016.pdf](http://www.psp.cz/eknih/cdrom/ic/pdf/en/Legislative_ENG_05_2016.pdf)

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each bill by the Organizing Committee or the Chairperson. The Government has to provide an opinion for all bills (except the ones proposed by itself) within 30 days.

Figure 8: The legislative process in the Chamber of Deputies of the Parliament of the Czechia



The political debate on a bill is held in the framework of three readings. The purpose of the first reading is to introduce a bill. Deputies can get acquainted with its content and aim while political parties can clarify their positions regarding it. Following a general parliamentary debate (without a specific time limit), the Chamber of Deputies may return the bill to its submitting party; reject the bill or assign it to committees for deliberation. Committees have 60 days for discussion, but this time can be shortened by up to 30 days and extended by up to 20

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days without further approvals. Following a general and a detailed debate, the committee adopts a resolution in which it recommends to the plenary session whether to adopt or reject the bill. Deputies may submit proposal for amendments to the bill or a minority of the committee members, comprising at least one fifth of the total number of members of the committee, may adopt a dissenting opinion.

The second reading consists of a general and a detailed parliamentary debate, both are held without any time limits. In the detailed debate any deputy may propose amendments to the bill; resolution on a procedural matter; to again refer it to a committee or reject the bill, although rejection is only voted upon in the third reading. Until the completion of the second reading the submitting party may withdraw the bill with the consent of the Chamber of Deputies, afterwards it can be withdrawn only with its consent.

The third reading may be commenced after all proposed amendments in the second reading have been distributed to Deputies. No further amendments may be given to the bill in the course of the third reading except the ones to correct legislative, technical or grammatical errors. The rapporteur proposes the voting procedure both for any proposed amendments and the bill as a whole. The Chamber of Deputies first votes on any proposed amendments and lastly, on the bill as a whole. If the bill as a whole is not approved, then the bill is not adopted and the legislative process is terminated. If the Chamber of Deputies expresses its consent, the bill is sent to the Senate, except the Act on the State Budget, which is debated solely by the lower chamber of the Parliament.

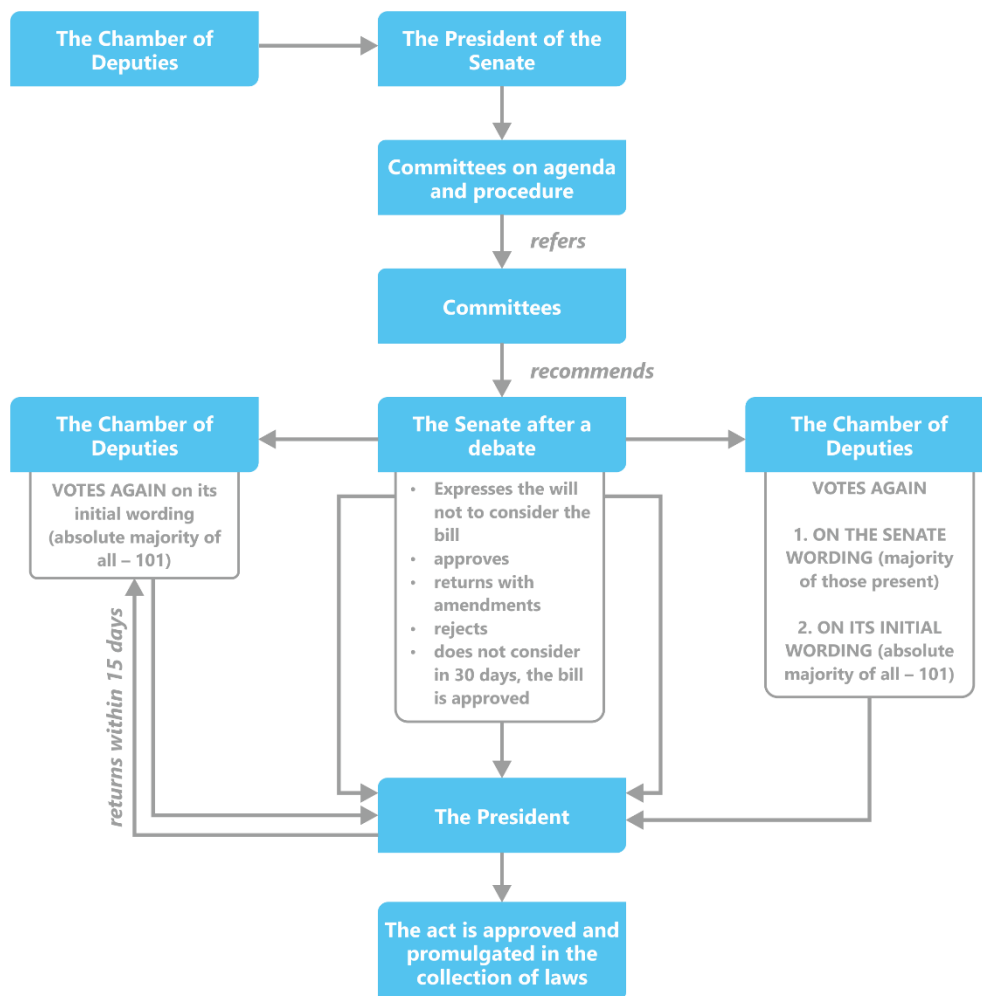
### The Senate<sup>39</sup>

The Senate as a whole also has legislative initiatives and such a bill is debated in one reading following the preparatory work of the assigned committees. If the bill is approved by the plenary, the President of the Senate submits it to the Chamber of Deputies and a Senator is delegated to provide the reasoning for the bill in the Chamber of Deputies.

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39 [https://www.senat.cz/informace/pro\\_verejnost/infocentrum/infocentrum\\_informace\\_o\\_senatu-eng.php?ke\\_dni=4.8.2016&O=10](https://www.senat.cz/informace/pro_verejnost/infocentrum/infocentrum_informace_o_senatu-eng.php?ke_dni=4.8.2016&O=10)

*Figure 9: Course of the legislative process*



The deliberation procedure in Senate committees is similar to the abovementioned process in committees of the Chambers of Deputies. Following debates in the assigned committees the bill is discussed at a plenary meeting of the Senate where the Senate may adopt one of the following resolutions:

- a)** the Senate expresses its will not to discuss the bill, then it is considered to have been adopted as law and presented to the President for final signature;
- b)** the Senate may approve the bill, then same as above;
- c)** the Senate may reject the bill, then it is returned to the Chamber of Deputies for a new vote;
- d)** the Senate may return the bill to the Chamber of Deputies along with approved amendments, then it is returned to the Chamber of Deputies for a new vote;
- e)** if the Senate does not adopt any resolution regarding a bill within 30 days, then it is considered to have been adopted as law.

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In case a rejection by the Senate, the Chambers of Deputies may override the Senate's decision by an absolute majority of all Deputies. In case of a bill along with Senate amendments, the Chambers of Deputies first votes on the amended version which may be adopted as law by a simple majority of present Deputies. If the Senate version is rejected, then the Chambers of Deputies votes on the original wording which may be adopted as law by an absolute majority of all Deputies.

There are exceptions where the Chambers of Deputies cannot override the Senate's decision. Constitutional bills and amendments to the Constitution of the Czechia must be approved by both chambers with the votes of three-fifths of all deputies and three-fifths of those Senators present. The situation is similar for election acts, the Act on the Rules of Procedure of the Senate and the Act on Relations between the Chambers. The limit of 30 days does not apply to the Senate for those bills.

#### *The veto power of the President*

A bill is adopted as law where it has been approved by Parliament after going through the parliamentary legislative process. The President of the Czechia may, however, return a law (with the exception of a constitutional law), along with reasons, within 15 days of receiving the law for final signature; this is referred to as the veto power of the President.

The Chambers of Deputies must hold a vote on a law that has been returned by the President. If an absolute majority of all Deputies votes on upholding the law, it is then published in the Collection of Laws, otherwise, it is considered defeated.

#### ***Legislative process on the government level<sup>40</sup>***

On the government level legal rules are prepared in a form of draft general principles of laws bills, regulations and orders of the government; however, out of these rules only bills (so-called government bills) are passed to the Parliament.

The government bills are prepared by ministries or other central bodies of the state administration in accordance with the Government Legislative Rules. For legal rules there are general requirements: (i) to contain detailed analysis of legal background and matter of facts; (ii) to have Regulatory Impact Assessment (RIA); (iii) to be harmonized with international treaties and legal acts of the European Community and the European Union; and to meet the requirements for lucidity, comprehensibility and explicitness.

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<sup>40</sup> <https://icv.vlada.cz/en/cotoje/what-is-a-legislative-process--61107/tmplid-676/>

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Drafts of the government bills are submitted to the relevant bodies listed in the Government Legislative Rules for their opinion, and there is a duty to publish legal rules on the internet. The respective bodies have 15-20 working days for comments, depending on the type of the materials. In case no comment is settled, it becomes a subject of a disagreement which affects the related debate at the government meeting.

The Government Legislative Council is also involved in the process as an advisory body. The Council has to provide its opinion within 60 days starting from the submission day. Two other bodies, the Compatibility Department and the Committee for Regulatory and Effective Public Administration, play key role in the process. The first one assesses the draft from the point of its harmonization with the Acquis communautaire while the latter assesses the regulatory impacts.

After the comment procedure, the materials are submitted to the government meeting for debate where the standpoint of the Government Legislative Council must be taken into consideration. After the debate there is a vote and in case of approval, the bill is passed to the Chamber of Deputies.

Regarding the EU wide legislation, once the certain legal act is adopted by the EU institutions, the Office of Government of the Czechia/ EU liaisons section "attributes" the responsibility for a single legal act to a relevant ministry, which then decides about following action – most commonly novelization of existing legal act or proposing the new one. This must afterwards go through the whole legislation process.

The legislative process on the government level is processed through the electronic library of the Office of the Government of the Czechia (eKLEP) including the submission of the draft materials for comments and to the government meeting or providing the standpoints by the Government Legislative Council.

### ***Legislative process at local level***

We listed above the competences of both municipalities and regions within the Czech legal system. In the field where both of these local actors are provided with independent powers they can decide – upon a decision of collective elected bodies of both municipalities and regions – about the binding regulations valid for the territory of each relevant territorial unit.

The regions and municipalities are actively involved in international cooperation. As there are 14 regions and 6258 municipalities in the Czechia, it is not possible to mention all activities.

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## 3.2 Hungary

### 3.2.1 Political structure<sup>41</sup>

Hungary's public administrative regional units are comprised of the capital city and nineteen counties. Budapest is made up of twenty-three districts. All together, there are 3,152 local municipalities in Hungary.

By its form of state, Hungary is a republic, which means that political power derives from the people. The Hungarian political system is parliamentary, which means that the people exercise power through elected Members of Parliament. Hungary functions according to democratic principles, and this is reflected in the relationship between the three branches of government: the Legislature, the Executive and the Judiciary power which operate independently of each other.

The most important institutions of the Hungarian State are:

- ❖ legislative power: the Parliament (National Assembly)
- ❖ executive power: the Government
- ❖ judiciary power: the Courts

The following institutions play an important role in the functioning of the State:

- ❖ the President of the Republic,
- ❖ the Constitutional Court,
- ❖ the Ombudsmen, otherwise known as Parliamentary Commissioners,
- ❖ the State Audit Office,
- ❖ the Hungarian National Bank,
- ❖ the Hungarian Armed Forces,
- ❖ the Hungarian Prosecution Service,
- ❖ local municipalities.

The Fundamental Law is the foundation of the Hungarian legal system. The Fundamental Law and legislative regulations are binding to all persons. The provisions of the Fundamental Law must be interpreted in accordance with their purposes, the National Avowal (preamble of the new Hungarian Fundamental Law) and the achievements of Hungarian historical Constitution.

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<sup>41</sup> <http://www.kormany.hu/en/hungary/the-hungarian-state/the-government-and-commissioners/prime-ministerial-commissioner-government-commissioner-and-ministerial>

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### ***Legislative power***

The Hungarian Parliament (National Assembly) is a legislative body whose range of law-making activity is extensive and whose structure is unicameral consisting of 199 members. MPs are elected for four-year terms by popular vote.

The two primary functions of the National Assembly consist of *legislation* and *monitoring the government*. In addition to its legislative power, the National Assembly is the sole body in the country with constitutive power. (A number of other countries separate the two functions, e.g. through a Constituent Assembly.) The National Assembly adopted a new constitution, the Fundamental Law of Hungary, on 18 April 2011, which came into force on 1 January 2012 in conjunction with the Transitional Provisions of the Fundamental Law of Hungary.

The Fundamental Law regulates classical constitutional areas: state administration (national government, local governments), organisations for the protection of rights and the listing of the basic rights and duties of citizens.

The duties of the National Assembly have increased considerably since 1990. The number of items on the list of duties, which are enshrined in a variety of legal provisions is close to five hundred. In laying out the main duties of the National Assembly, the Fundamental Law provides that it shall adopt and amend the Fundamental Law of Hungary; pass the central budget and approve its implementation; authorise recognition of the binding force of international treaties falling within its duties and competences; elect the President of the Republic, the members and President of the Constitutional Court, the President of the Curia, the Prosecutor General, the Commissioner and Deputy Commissioners for Fundamental Rights, and the President of the State Audit Office; elect the Prime Minister and decide on any matter of confidence relating to the Government; dissolve representative bodies operating in contravention of the Fundamental Law; decide on a declaration of a state of war or on a conclusion of peace; make decisions relating to any special legal order or to participation in military operations; and declare a general amnesty.

The National Assembly shall establish *standing committees*, the committee on legislation and the committee representing the nationalities, and may establish an ad hoc committee and a committee of inquiry, as parliamentary committees.

The National Assembly forms its system of standing committees. The functions of standing committees shall be aligned with the governmental functions. In addition to the plenary sessions, where the legislative supervision is exercised through questions and interpellations,

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the parliamentary committees also play a significant role in the supervision of the executive branch: the government.<sup>42</sup>

However, participation in legislation and monitoring the work of government are assigned with different weights in the work of certain standing committees. In the 2014–2018 cycle 14 standing committees engaged in their respective areas.

Standing committees play a more pronounced role in the new legislative process, as detailed debates are to be conducted in committee meetings instead of during plenary sittings. The standing committees are in charge of putting forward initiatives, making proposals, delivering opinions, taking decisions in the cases determined in Acts and in the provisions of the Resolution 10/2014. (II.24.) OGY on certain provisions of the Rules of Procedure (thereinafter: Resolution 10/2014 (II. 24.) OGY.

The activity of standing committees is linked to the main functions of the National Assembly. Committees have competence in any matter for which the National Assembly is responsible and may even take the initiative to address any issue they regard as essential in a particular area of the state and society. All standing committees shall set up a subcommittee for monitoring the implementation, the social and economic impacts of the Acts falling within the committee's functions and the deregulation processes.

The number and scope of responsibilities of standing committees are essentially adjusted to the structure of government, but the match is not automatic. The Act XXXVI of 2012 on the National Assembly (thereinafter: Act XXXVI of 2012) lays down the requirement to form separate standing committees on immunity, incompatibility, discipline and mandate control; constitutional affairs; the budget; foreign affairs; defence; European Union affairs; national security; and, more recently, Hungarian communities abroad.

In the Committee system the *Committee on legislation* have an outstanding role. According to the Article 21(1) of the Act XXXVI of 2012 the Committee on legislation shall act in the course of the National Assembly's legislative activity as a committee in charge of making proposals, delivering opinions, taking decisions in the cases determined in Acts and in the provisions of the Resolution 10/2014 (II. 24.) OGY.

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<sup>42</sup> There are also individual parliamentary control bodies, like the State Audit Office and the institution of the Commissioner for Fundamental Rights.

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### ***Executive power***<sup>43</sup>

The Government is the most important body of executive power, and the primary coordinator of public administration. This means that it implements decisions made by the Parliament, and it pursues the realization of the goals laid out in the Government's programme. The Government shall be the general body of executive power, and its responsibilities and competences shall include all matters not expressly delegated by the Fundamental Law or other legislation to the responsibilities and competences of another body. The Hungarian Government comprises of the Prime Minister and ministers. The Prime Minister is the head of the Government.

Hungary's political system is a parliamentary one, which is to say that the Government is accountable to the Parliament. This means that the Parliament has the right to monitor the work of the Government, and if it concludes that the Government is not pursuing its responsibilities satisfactorily, it may withdraw its support for it through a so-called "constructive no-confidence vote".

Prime Minister is elected by the members of the Parliament following the proposal made by the President of the Republic. (In parallel, the Parliament votes on the Government's programme.) The election of the Prime Minister shall be subject to a majority vote of the Members of the Parliament. The task of the Prime Minister is to determine the general direction of government policy, within the context of the Government's programme. The President of the Republic appoints ministers according to the Prime Minister's recommendations. In addition to this, the Prime Minister chairs the cabinet meetings and ensures the implementation of government decisions. The Government shall be formed through the appointment of Ministers. Members of the Government shall swear an oath before Parliament.

The Prime Minister can issue decrees to designate one or two Ministers to serve as Deputy Prime Ministers chosen from among the members of the Cabinet. From 2010 to 2014 there were two deputy prime ministers, who carried out specific tasks in addition to substituting the Prime Minister in certain cases as specified by him. One of these deputy prime ministers was responsible for the structure and efficient operation of public administration, while the other coordinated and guided the work related to ethnic policy and church affairs.

The majority of a Minister's work involves the guidance and supervision of a given ministry. It is the task of a Minister to draft legislative proposals, to facilitate the effective operation of the ministry and to implement the government programme. A Minister's responsibilities also

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<sup>43</sup> <http://www.kormany.hu/en/doc/the-hungarian-state/hungary-s-constitutional-framework>

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include representing the Hungarian Government at the European Council, or at other international organisations.

According to the new structure of public administration created in 2011, a Minister of State has full power to substitute the Minister. With the radical reduction of the numbers of ministries taken in 2010, a Minister directs several specialist departments; for example a single Minister is responsible for education, sport and healthcare and so Ministers of State play important roles in the direction of their respective specialist areas.

Ministers of State can be classified under three categories. Ministers of State responsible for specialist areas and Parliamentary Ministers of State are leaders of a political nature. A Minister of State for public administration is a specialist leader of a ministry's administrative operation, while the responsibilities of a Parliamentary Minister of State relate to liaison with the Parliament.

### **3.2.2 Legislative process**

#### ***Sources of law***

##### *Fundamental Law of Hungary*

The Fundamental Law of Hungary (promulgated on 25 April 2011) sits at the apex of the legislative hierarchy in Hungary, and every other law must be compatible with it. The Fundamental Law was enacted by the National Assembly, and an amendment requires a two-thirds majority of the votes of all members of the Assembly [Article S(2) of the Fundamental Law].

The Fundamental Law and its transitional provisions (Transitional Provisions of the Fundamental Law of Hungary promulgated on 31 December 2011) entered into force on 1 January 2012.

##### *Acts of the Parliament*

In Hungary, Acts are adopted by the National Assembly. According to the Fundamental Law the rules for fundamental rights and obligations are determined by Acts. The National Assembly adopts Acts by a simple majority of votes (more than half of the votes of the members present), except for so-called cardinal Acts defined by the Fundamental Law, the adoption and amendment of which require a two-thirds majority of the votes of Members of the National Assembly present.

According to the Fundamental Law cardinal Acts apply for example to citizenship, the churches, the rights of the national minorities living in Hungary, the legal status and

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remuneration of Members of the National Assembly and of the President of the Republic, the Constitutional Court, the local governments, the detailed rules for the use of the coat of arms and the flag, and the provisions on state decorations.

According to the Fundamental Law the authorisation to recognise the binding nature of the European Union's founding and amending Treaties, the declaration of a state of war, conclusion of peace and declaration of a state of special legal order require a two-thirds majority of the votes of all Members of the National Assembly.

### *Decrees*

The Fundamental Law recognises government decrees, Prime Ministerial decrees, ministerial decrees, decrees by the Governor of the National Bank of Hungary, decrees by the heads of autonomous regulatory bodies and local government decrees.

In a state of national crisis the National Defence Council, and in a state of emergency the President of the Republic, can also issue decrees.

#### Government decrees

The government's authority to enact decrees may be primary or based on legislative authority. The primary powers are established by Article 15(3) of the Fundamental Law, which declares that the government may issue decrees within its sphere of authority on any matter not regulated by an Act. No decree of the Government shall conflict with any Act. This does not restrict the powers of the Parliament, which may consider any regulatory field under its authority.

According to the Fundamental Law and Act CXXX of 2010 on legislation, the government may, also based on specific legislative authority, enact decrees that implement Acts. Under Section 5(1) of the Legislation Act, an authorisation to issue implementing regulations must specify the holder, subject and scope of the authority. The holder may not pass legislative authority to another party.

#### Prime Ministerial decrees

According to the Fundamental Law the Prime Minister can also issue decrees, e.g. appoint a deputy prime minister from among the ministers by decree. Prime ministerial decrees are ranked at the same level as ministerial decrees in the hierarchy of legislation.

#### Ministerial decrees

According to the Fundamental Law ministers adopt decrees by authority of an Act or a government decree (issued within their original legislative competence), whether independently or in agreement with any other minister; such decrees may not conflict with any

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Act, government decree or decree of the Governor of the National Bank of Hungary. Ministerial decrees are ranked below government decrees in the hierarchy of legislation.

#### Decrees of the Governor of the National Bank of Hungary

Acting within his or her competence defined by a cardinal Act, the Governor of the National Bank of Hungary may issue decrees by statutory authorisation, which may not conflict with any law.

#### Decrees by the heads of autonomous regulatory bodies

According to Article 23(4) of the Fundamental Law, acting within their competence defined by a cardinal Act, the heads of autonomous regulatory bodies issue decrees by statutory authorisation, which may not conflict with any Act, government decree, Prime Ministerial decree, ministerial decree or with any decree of the Governor of the National Bank of Hungary.

#### Local government decrees

According to Article 32(2) of the Fundamental Law, acting within their competences, local governments may adopt local decrees in order to regulate local social relations not regulated by an Act or by authority of an Act.

Local government decrees may not conflict with any other legislation.

The detailed rules on decrees to be adopted by local government representative bodies are laid down in Act CLXXXIX of 2011 on Hungary's local governments.

#### *International agreements and the fundamental principles of international law*

The government of Hungary may conclude international agreements with other states and governments of other states. In Hungary, the relationship between international agreements and domestic law is based on a dualist system; that is, international agreements become part of domestic law via their promulgation by legal regulations.

#### *Legal instruments of state administration*

The Hungarian legal system includes legal instruments of state administration which, although they contain normative provisions, do not qualify as legislation.

The Legislation Act (Act CXXX of 2010) defines two types of legal instruments of state administration: normative decisions and normative orders. These are rules of conduct that are not generally binding, i.e. not binding on everyone. They are merely internal provisions, organisational and operational rules relating solely to the issuer or subordinated bodies or persons.

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### *Normative decisions*

Through normative decisions the National Assembly, the government and other central administrative bodies, the Constitutional Court and the Budget Council may lay down their own organisation and functioning, activities and action programmes.

Local government level representative bodies can also lay down their own activities and those of bodies run by them, as well as their action programmes and the organisation and functioning of bodies run by them in normative decisions.

### *Normative orders*

Within their remit and as provided for in legislation, the President of the Republic, the Prime Minister, the head of central administrative bodies (with the exception of the government), the President of the National Judicial Office, the Supreme Prosecutor, the Commissioner for Fundamental Rights, the Governor of the National Bank of Hungary, the President of the State Audit Office, the head of the metropolitan or county government office, mayors and town clerks may lay down the organisation, functioning and activities of bodies led, run or supervised by them by adopting normative orders.

Moreover, the National Assembly, the President of the Republic, the Constitutional Court, the Commissioner for Fundamental Rights, autonomous regulatory bodies, the Prime Minister's Office and the head of the official organisations of the ministries may issue normative orders which are binding on the organisation's staff.

### ***Scope of application of legislation***

The geographical scope of application of legislation extends to the territory of Hungary, while that of local government decrees extends to the administrative area of the local government. The personal scope of application of legislation extends to natural persons, legal persons and organisations without legal personality in the territory of Hungary, Hungarian citizens outside the territory of Hungary, and in the case of local government decrees to natural persons, legal persons and organisations without legal personality in the administrative area of the local government.

### ***Legislative process at national level***

The Fundamental Law defines the core responsibilities of the National Assembly these being the adoption and amendment the Fundamental Law of Hungary and the adoption of the acts. Motions that can be entered into the Order Book of the National Assembly ('substantive motion') shall be the following: the legislative proposal, the proposal for resolution, the proposal for political declaration, the interpellation, the question, the report, the initiative for

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political debate, the motion for a decision by the National Assembly concerning persons, the initiative for referendum.

A vast majority of legislative proposals and proposed resolutions require a *simple majority or qualified majority of votes* to pass. For the amendment of the Fundamental Law, or for passing certain decisions defined in the constitution, the affirmative *votes of two-thirds* of the Members of the Parliament are required.

As a direct result of the historical development of Hungarian legislation, the Fundamental Law creates the framework for enacting the cardinal laws. Cardinal laws are different from ordinary laws in two decisive aspects. The prime difference is that the Fundamental Law stipulates those 32 subjects that can and should be regulated by a cardinal act. The regulation of basic constitutional rights and the fundamental institutions of state administration are primarily those territories which can be exclusively regulated through the cardinal acts. The other essential difference concerns its modification procedure since cardinal acts can only be modified if a two-thirds majority of the Members in attendance vote in favour of the alteration. However, the cardinal acts are no exception when it comes to the primacy of the Fundamental Law; no cardinal act can contravene the Fundamental Law including its enactment which have to be done in alignment therewith and in the spirit thereof.

Law-making is the vehicle whereby National Parliament underpins the performance of its other duties. The most evident example for this is the fact that even the establishment and the dynamic management of the system of governance calls for certain laws (for instance the Fundamental Law itself, the Act on the Constitutional Court and the law identifying the ministries). This not only applies to interstate matters but also to foreign affairs and national defence since these are also implemented by legislative means (such as the promulgation of international treaties and the enactment of the national defence law). Furthermore, the National Assembly also entrusts the legislation to establish those frameworks that are needed to monitor the government. Finally, the National Assembly has established its own oversight institutions by formulating laws on the State Audit Office, the duties and powers of the Parliamentary Commissioner for Fundamental Rights and the reporting obligation of various bodies to the National Assembly among others.

The Fundamental Law and Act CXXX of 2010 on Legislation set forth the parliamentary process of law-making along with related rights and obligations, but the general rules for the discussion of the legislative proposal laid down in the Resolution 10/2014. (II. 24.) OGY.

According to Art. 6 (2) of the Fundamental Law the President of the Republic, the Government, any parliamentary committee and any Member of the Parliament may *initiate legislation*. Proposing legislation means that authorised parties submit to the Parliament written drafted

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proposals along with an explanation. The Government submits most of the proposed legislation (around 55–60%), followed in terms of frequency by Members of the Parliament and committees. Presidents of the Republic have rather infrequently exercised their right to initiate legislation. This only occurred during the 1990–1994 cycle. When it comes to the enacted laws, the share of the Government is over 90%. In addition to the right to propose legislation, the Resolution 10/2014 (II.24.) OGY lays down a number of rights that strengthens the pronounced role of the Government in legislation. The legislative themes and scheduling are essentially defined by the semi-annual legislative programme of the Government. The governing majority of the Government allows the proposal of legislation on the orders of the day, expedite the debate, hold detailed debates and adopt proposed legislation.

Since 1990, the National Assembly on average 140 laws yearly with the most recent cycle being considerably more productive (with an annual average of 215 laws in the 2010–2014 cycle).

*Table 11: Bodies responsible for issuing legal binding acts in Hungary*

Acts by legislative bodies	Acts by executive bodies						Acts by regional bodies	
Parliament (National Assembly)	Government	Ministries	Prime Minister	Governor of the National Bank of Hungary	Heads of autonomous regulatory bodies and local government	President / National Defence Council	Municipalities	Regions
Fundamental Law	Decree	Legislative proposals, ministerial decree	Decree	Decree	Local decree	Decree (in state of emergency or national crisis respectively)	Decree	Decree
Acts								
Recognition of international treaties								

The process of debating proposed legislation comprises an alternating succession of debates in committees and plenary sittings.

After the submission of the legislative proposal, the Speaker shall designate a standing committee for carrying out the *detailed debate* on it ('designated committee'). In the case of a legislative proposal submitted by a standing committee, the submitting committee may also be designated. Any standing committee may announce in writing its intention to hold a detailed debate with regard to the provisions of the legislative proposal falling within its functions ('committee connected to the debate').

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The discussion of the legislative proposal shall be started with the *general debate*. The general debate shall consist of discussing the necessity and the governing principles of the whole of the legislative proposal or of its parts.

The general debate is followed by the phase of the *detailed debate* which is held in the designated and cooperating committees ('reading committees'). During the debate, committees vote on proposed amendments, support them, uphold them with changes or may formulate additional planned amendments.

According to the Art. 45 of the Resolution 10/2014. (II. 24.) OGY the 'reading committee' adopts an amendment which closes the detailed debate and submits it to the Speaker with its final report on the detailed debate. The Committee on Legislation forms an opinion and combines the amendments adopted in the committee concerned with the close of the detailed debate and its own proposals into a single proposal ('summary of proposed amendments').

The Committee on Legislation sends the Speaker the combined text of the legislative proposal and the summary of proposed amendments ('unified proposal') signed by the proposer (Parl. Res. 10/2014, §46(10)). A plenary debate is held on the committee reports regarding the detailed debate, on the summary report and on the summary of proposed amendments (Parl. Res. 10/2014, §47).

If the Parliament does not uphold amendments (Parl. Res. 10/2014, §48(6)) it decides on the summarising proposal for amendment in a single vote. If the summarising proposal for amendment is adopted, the National Assembly shall hold a final vote on the single proposal as a whole. If the National Assembly maintains a proposal for amendment, there shall be no vote on the points of the summarising proposal for amendment for which a separate vote has been requested and on the summarising proposal for amendment. The Committee on Legislation submits a second summary of proposed amendments (the combined language of the summary of proposed amendments and the upheld proposed amendment) and a second unified proposal (the combined text of the legislative proposal and the second summary of proposed amendments).

In the case, the National Assembly approves the proposal, it is passed toward the President for signature. The President has a right to refuse to sign the proposal and send it back, with reasons given, to the Parliament for reconsideration (so-called 'political veto'). If the National Assembly approves the proposal again, the President has no other choice than to sign it and order its promulgation.

When any legal doubts concerning the proposal passed by the Parliament turns up at the President, he/she may send it to the Constitutional Court for considering its conformity with the Fundamental Law (so-called 'constitutional veto'). In case the Constitutional Court states

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that the proposal is consistent with the Fundamental Law, the President is obliged to sign it. If the Court finds inconsistency, the President has to refuse to sign it.

During the legislation the *House Committee* and the *Office of the National Assembly* play significant role. The House Committee is in charge of preparing decisions. The chair of the House Committee shall be the Speaker, and its members shall be the Deputy Speakers, the leaders of the parliamentary groups and the Principal of the House. The Office of the National Assembly supports Parliament organisationally by carrying out operational and administrative tasks as well as preparatory work for decision-making. It provides assistance in the work of Parliament to its officers, its committees and Members of Parliament in respect of particular duties. Moreover, it also operates offices for the groups of the five parliamentary parties, which are staffed in proportion to the number of Members in a group.

The legislative duties of the National Assembly were partially altered in response to Hungary's accession to the European Union (2004), similarly to those of the parliaments of other V4 countries. Firstly, the nature and proportions of law-making changed, and, secondly, the scope of responsibilities of Parliament expanded to cover new elements.

A significant portion of the laws applicable in Hungary is adopted by EU institutions. There is no call for national regulation in areas regulated exhaustively by EU law and wherever the EU has exclusive competence. National parliaments retain their power to make laws in full or in part in areas subject to shared or national competence.

The EU regulations are directly applicable, they do not impose an additional legislative burden on national parliaments. But the transposition of directives into the national legal system has emerged as a new task. Directives oblige Member States to achieve a purpose, but it is the task of each Member State to select the method of implementation and integration into its own law. However, binding EU decisions do impose a legislative duty on national parliaments.

There are also new tasks associated with EU membership. Parliament is indirectly involved in EU level decision-making within the framework of specific procedures, and the Government cooperates with the National Assembly to develop Hungary's position in respect of draft EU legislation pertaining to specific areas ('scrutiny procedure'). The Act XXXVI of 2012 and the Resolution 10/2014. (II.24.) OGY regulate cooperation between Parliament and the Government in matters relating to the European Union. These provisions divide the tasks of the Parliament relating to the European Union between the National Assembly (in the plenary) and the Committee on European Affairs. When the scrutiny procedure applies, the Committee has final decision-making power. Government duties, however, are normally addressed to the plenary.

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As a legislative body, the National Assembly passes normative resolutions in addition to enacting laws. As a parliamentary resolution is not a law, it may not grant rights to or prescribe obligations for citizens. Parliament is typically a legislative body, but it also passes resolutions to exercise some of its powers and to perform some of its duties. (Actually, the vast majority of parliamentary resolutions are not normative and are specific in nature to the election of various officers and members of committees and to approving reports.) Most of the normative parliamentary resolutions concern the adoption of various, normally longer-term plans, programmes and strategies. (Parliamentary resolutions cover, for instance, the National Programme for Environmental Protection, the National Health Promotion Programme, the National Regional Development Plan, the National Strategy for Preventing Community Crime and the long-term directions for developing Hungary's National Defence.) Parliamentary resolutions most frequently invite the Government to develop and submit proposed legislation or plans. Also, Parliament occasionally issues tasks to the Government or defines desirable government measures.

### ***Legislative process on local and territorial level***

Hungary is a unitary State organised on a decentralised way. The Fundamental Law of Hungary (2011) recognises local governmental system (Art. 31-35). It has three levels of governance: the central, territorial (county) and local levels. Besides the Fundamental Law of 2011, the cardinal Act CLXXXIX of 2011 on Local Governments (hereinafter: Act CLXXXIX of 2011) describes the territorial organisation and vertical division of powers.

The Fundamental Law declares the constitutional foundations of local governments. The source of public power is the people, who exceptionally exercises its power directly through elected representatives. The Act CLXXXIX of 2011 states that the community of the local voters of the settlements (local municipalities) and the counties (county local governments) has the right to self-governance.

The territorial division of Hungary fundamentally determines the structure of the state and thus the operation of local municipalities. The local government of the village (2809), the town (346), the district seat (197), the towns with county rank (23), the metropolitan districts (23) as well as that of the capital city and the county (19) act independently in the public affairs of local interest, belonging to its sphere of duties and jurisdiction. There do not exist any hierarchical relationships between local authorities, they have equal rights.

The primary addressee of local government duties and powers is the representative body (council) which is the main decision-making body. The members of the representative body are elected by secret ballot on the basis of direct, equal, universal suffrage for four or five years. The representatives participate in the preparation of the decisions and in the organisation and

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supervision of their implementation. The rights and duties of the various representatives of the municipality are identical. The representative body holds sessions as needed, as often as is convened for in the organisational and operational regulations but at least six times a year.

The Act CLXXXIX of 2011 strengthened the strategic decision-making position of these organs when it stated that municipal decisions can be made by the representative bodies or by local referenda. The representative body makes its decisions independently and it takes responsibility for its decisions on its own. Article 32 of the Fundamental Law sets forth that the main area in which local governments act is the management of local public affairs, which takes place within the framework established by separate law. In managing local public affairs, local governments adopt decrees; make decisions; autonomously administer their affairs; determine the rules of their organisation and operation; exercise rights of ownership with respect to local government property; determine their budgets and autonomously manage their affairs on the basis thereof; may engage in entrepreneurial activities with their assets and revenues available for this purpose, without jeopardising the performance of their mandatory duties; decide on the types and rates of local taxes; may create local government symbols and establish local decorations and honorific titles; may request information from the organ vested with the relevant functions and powers, make decisions, or express an opinion; may freely associate with other local governments, establish associations for the representation of their interests, cooperate with local governments of other countries within their functions and powers, and become members of international organisations of local governments; exercise further functions and powers as required by law.

The decision of the representative body can be of two types, namely a decree or a resolution. A decree is a legal act (law) which cannot be contrary to other legal regulations, thus it is at the lowest level among the legal hierarchy. Local governments can adopt a decree in their own right in accordance with article 32(2) of the Fundamental Law, which allows local governments to publish legal regulations in their duties.

The resolution can be normative or individual. The representative body adopts its individual decisions in the form of a resolution, which can even be decisions governed by public or private law. The normative local government resolution is a public organization's governing instrument according to the Act CXXX of 2010 on Legislation which can regulate the organisation and the programs of the representative body and those bodies which are directed by the representative body.

The decree shall be signed by the mayor and the notary. The notary arranges its publication in the official gazette of the representative body. Decisions may be overruled by the Constitutional Court and by the courts, and exclusively in case of breaches of law.

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Local government decrees must be sent to the capital or county government office immediately after their promulgation. If the capital or county government office finds the local government decree or any of its provisions to be in breach of any law, it may initiate a judicial review of the local government decree.

The representative body passes its decisions (decree, resolution) with open voting. The *simple majority or qualified majority of votes* are required. A qualified majority is needed for example for the adoption of a local government decree, for the establishment of an inter-municipal cooperation or institution, the exclusion of a councilor or to establish a conflict of interest or indignity.

Duties of the representative body can be classified as *non-transferable duties*, in which only the representative body can make decisions, and *transferable duties*. The adoption of a local government decree, the main organisational duties and powers and main personnel decisions, the major economic and business decisions, access to the inter-municipal associations and international cooperation belong to the non-transferable duties.

The representative body may delegate certain part of its powers to the mayor, a committee, the representative body of the partial local government, the inter-municipal associations and to the notary. It may give instructions for the exercise of these powers, it may repeal these powers. The transferred powers cannot be further transferred.

In the *Organisational and Operational Rules* the representative body determines the organisation of its committee, it elects its committees. With regard to municipalities with a low population, the Act CLXXXIX of 2011 regulates their situation flexibly. At the municipalities with a population lower than 100 people the committee tasks are undertaken by the representative body, at the municipalities with a population lower than 1000 people the obligatory committee tasks and powers may be undertaken by a single committee. According to the Article 57(2) for the municipalities with a population larger than 2000 people it is obligatory to create a financial committee. The Act CLXXXIX of 2011 may also order the formation of other committees. The representative body may create a temporary committee for the undertaking of the local government tasks.

The committees have an outstanding status among the organs of the local government. As a principal rule, the representative body determines the structure of the committee, its tasks, number of members, nature of composition and it may change all of these anytime. The representative body may vest its committees with the right of (certain) decisions, and it may review the decision made by the committee.

The tasks undertaken by the local authorities and their bodies may be divided into two groups: *local government and public administrative tasks*. Article 31 of the Fundamental Law

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determines the essence of local governance as the management of local public administrative tasks that are related to the provision of public services to the citizens, and to the creation of the organizational, staff-related and financial conditions of the cooperation with the citizens.

The administrative tasks shall be carried out by the office of the mayor (Lord mayor) and the county (Capital) office. As a main rule, those municipalities, the population of which do not reach 2000 people may not have an independent mayor's office, they have to create a joint local government office. The main tasks of the offices are to prepare the local government and state administrative decisions and the organisation of the implementation of these decisions. The office does not have an independent power of decision. The office participates in the harmonization of the cooperation of local governments with each other and with the state organs.

The second tier of the Hungarian municipal system is the *county local government*. Tasks and authority of the counties are exercised by the general assembly. The county self-government is represented by the chairman of the general assembly who is elected by the county general assembly from among its members, with secret balloting, for the period of its mandate. According to the provisions of the Act CLXXXIX of 2011 the role of the current county local governments significantly changed. They lost the vast majority of their competences and became key-actors of territorial development. Range of tasks of the county: territorial development; rural development; land-use planning and coordination activities.

*The Capital city and the metropolitan districts (23)* have separate responsibilities and authorities. The two-tier local government of the Capital is composed of the metropolitan local government of the capital city and of its districts. The capital's body of representatives is the general assembly of the capital. In districts mayors are elected, while the Capital is represented by the lord mayor. The metropolitan local municipality performs both the compulsory and voluntary undertaken and exercises the authority which concerns the whole of the Capital, or a part thereof which is larger than a district, or due to the special role played by the Capital in the country.

Local public affairs are connected to providing the population with the services of public utilities. The representatives may establish municipal institutions, enterprises with the purpose of providing public services belonging to its range of tasks, and may appoint their leaders/managers. The bodies of representatives are also free to form associations, in order to be able to tackle their tasks efficiently and expediently.

The municipality, the town, the district seat, the town with county rank, the capital and the metropolitan district, as well as the county may have different tasks and powers.

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The Act of 2011 differentiates in the determination of the compulsory tasks and powers, taking into account the nature of the tasks and the powers, and abilities and other attributes of local authorities, in particular the economic capacity; the number of population and the size of the administrative area.

*Table 12: General division of tasks and powers*

<b>National level</b>
<ul style="list-style-type: none"> <li>❖ The Parliament holds exclusive legislative powers;</li> <li>❖ The Prime Minister determines the Government's general policy;</li> <li>❖ The central Government enjoys exclusive powers in matters relating to national sovereignty (justice, foreign affairs, finance and national defence);</li> <li>❖ The Government has competence in all matters not expressly delegated to another body;</li> <li>❖ The Government has a civil service at its disposal, which is also deconcentrated at the County (County government offices) and local levels (metropolitan government offices).</li> </ul>
<b>Territorial level</b>
<ul style="list-style-type: none"> <li>❖ Territorial development;</li> <li>❖ Rural development;</li> <li>❖ Land-use planning;</li> <li>❖ Coordination activities.</li> </ul>
<b>Local level</b>
<ul style="list-style-type: none"> <li>❖ municipal development, spatial development, municipal management (public cemeteries, public lightening, chimney sweeping etc.),</li> <li>❖ kindergarten services,</li> <li>❖ social, childcare and child-welfare services and provisions,</li> <li>❖ health care basic service (GP, dentist etc.), services aimed at the creation of a healthy life-style, environmental-health (e.g. public sanitation, disinsection),</li> <li>❖ cultural service (library, public education, support of art and theatre etc.),</li> <li>❖ local environmental and nature protection, water-management, water damage prevention, provision of drinking water, water-sewage disposal, treatment, purification (water-channel service),</li> <li>❖ housing and space management,</li> <li>❖ national defense, civil defense, rescue services (disaster management),</li> <li>❖ cooperation in the provision of the public-safety of the municipality,</li> <li>❖ local public-employment,</li> <li>❖ tasks connected to local tax, economic management and tourism,</li> <li>❖ tasks related to sport and youth,</li> <li>❖ themes connected to nationalities and ethnicities,</li> <li>❖ waste-management</li> <li>❖ district heating services.</li> </ul>

Table 13: *The relations of local governments and other state organs*

<b>1. The National Parliament</b>	<ul style="list-style-type: none"> <li>❖ regulates in law the legal status of local governments, their task and powers, obligatory tasks, obligatory body-types, guarantees of operation, financial means and basic rules of economic management;</li> <li>❖ decides on the dissolution of those representative bodies that function in opposition of the Fundamental Law;</li> <li>❖ decides on the territorial division of the state, the merging and separation of counties, the changing of county boundaries, the naming of counties, the seats of the counties and the creation of capital districts.</li> </ul>
<b>2. The President of the state</b>	<ul style="list-style-type: none"> <li>❖ decides on the donation of the title of town, the creation and the merging of communes, the termination of the merging of communes, the naming of towns and communes.</li> </ul>
<b>3. The Government</b>	<ul style="list-style-type: none"> <li>❖ supervises the operation of the municipalities through the governmental offices.</li> </ul>
<b>4. The sectorial ministers</b>	<ul style="list-style-type: none"> <li>❖ professional regulation of public administrative tasks</li> <li>❖ professional rules of local governments</li> <li>❖ determination of qualification provisions</li> <li>❖ control of task-provision and data-request.</li> </ul>
<b>5. The minister responsible for local governments</b>	<ul style="list-style-type: none"> <li>❖ cooperation (preparation of legislation)</li> <li>❖ harmonization (municipal development and management)</li> <li>❖ decision (economic management, international affairs, office).</li> </ul>
<b>6. The minister responsible for the supervision of the legality of local governments</b>	<ul style="list-style-type: none"> <li>❖ preparation, initiation, giving opinion</li> <li>❖ supervision of legality</li> <li>❖ organisation of the public administration</li> <li>❖ harmonization of public administrative tasks.</li> </ul>

## 3.3 Poland

### 3.3.1 Political structure

The Constitution adopted in 1997 defines Republic of Poland as a parliamentary democracy with a bicameral Parliament, which consists of an upper chamber the Senate (Senat), and a lower chamber, the Sejm. None of the Chambers directly represent local and regional authorities. The President is the Head of State and the Government is led by the Prime Minister. Poland is a decentralised unitary State according to the principle of subsidiarity. The decentralisation process started with the political transition in 1989, and was initiated by introduction of gminas – self-governance entities on municipal level. According to the Constitution this is the basic unit of local self-government. Another set of reforms from 1998 brought self-governance entities on two other levels - counties (powiaty) and voivodships on regional level.

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Poland is divided into 16 voivodships, 379 counties and 2479 gminas. In total 65 counties out of 379 are the so-called county-cities, the largest cities in Poland, which combining both municipal and county competences and their Presidents exercise the responsibilities of the Mayor and Starosta (chairman of the county institutions). Warsaw, as a capital city, has a special status regulated in a specific Bill.

### ***Legislative power***

Entities that possess legislative initiative are: the President, Council of Ministers; group of minimum 15 Sejm deputies or a Sejm Committee, Senate or group of 100 000 citizens.

- ❖ The President – also known as the head of the state is directly elected with a two-round system and can only fulfill two five-year terms. The role comprises a series of competencies connected to the legislative process, these being the signature of the adopted laws, the issuing of decrees and rulings as well as the ratification of international agreements.
- ❖ Council of Ministers – also known as the cabinet is the collective executive decision-making body of the Polish government. The President of the Council of Ministers is the Prime Minister while the Deputy Prime Minister fulfills the role of the vice-president of the cabinet which is also made up by other ministers. The constitution appoints the Council of Ministers to compose and implement the necessary regulations and policies of the state (including Poland's foreign policy as well as domestic policy) making the cabinet the main pillar of political authority.
- ❖ Sejm – is the lower house of the Polish parliament. Its 460 deputies are elected by proportional representation every four years. The constitution provides the Sejm a dominant role in the legislative process as the proposed bills have to be submitted to it and also it controls the Council of Ministers.
- ❖ Senate – is the upper house of the Polish parliament to where since 2011 senators are elected by the single member, one-round first-past-the-post voting method. The Senate has the right to reject or amend the bills passed by the Sejm, but any such decision could be overruled by an absolute majority vote in the Sejm. The National Assembly is the joint session of the Sejm and the Senate.

Three other institutions have to be mentioned which play a crucial role in the legislative process in Poland, these being the National Bank of Poland, the Supreme Audit Office (also known as the Supreme Chamber of Control) and the Government Legislation Center (or RCL).

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- ❖ **National Bank of Poland** – the central bank of Poland is charged with the responsibility of maintaining the value of the national currency (Polish złoty) as well as it has the exclusive power of setting and implementing monetary policy
- ❖ **Supreme Audit Office or Supreme Chamber of Control** – is the top independent state audit body whose mission is to safeguard public spending. It submits to the Sejm the analysis of the state budget execution and monetary policy guidelines, the opinion on the vote of approval for the government, pronouncements on results of audits as well as the annual reports on its activity.
- ❖ **Government Legislation Center (RCL)** – is a state organizational unit subordinate to the Prime Minister. Its main task is to ensure the proper coordination of the legislative activity of the Council of Ministers, the Prime Minister and other government administration bodies as well as provide legal services for the Council of Ministers including the elaboration of governmental bills.

### ***Executive power***

According to the Constitution of the Republic of Poland, the executive power is exercised by the President and the Council of Ministers, with much larger role of the government. The main legal documents regulating the government's actions are: the Constitution, Bill on the Council of Ministers, work regulations of the Council of Ministers and the Bill on limitation of business activity by persons performing public functions. The Council of Ministers consists of the Prime Minister and ministers. The Council conducts internal and foreign policy and manages the government administration. Ministers manage specific departments of government administration or fulfil tasks appointed to them by the Prime Minister. The scope of activity of the minister managing a given department is defined by the Bill on the division of government. Individual departments can be combined under one ministry. The Prime Minister is designated by the President of the Republic of Poland. After presentation of the composition of the Council of Ministers he or she is appointed by the President and then presents the program of action of the Council of Ministers to the Sejm and requests a vote of confidence.<sup>44</sup>

A system of public administration is consisting of:

- ❖ **ministers** – Prime Minister and vice Prime Ministers; ministers directing a specific department of the government; chairmen of committees that are part of the Council of Ministers;
- ❖ **central government administration** - directors of central administration offices subordinate or supervised by the Prime Minister or competent minister; directors of

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44 Mechanizmy przeciwdziałania korupcji w Polsce. Raport z monitoringu, eds: Aleksandra Kobylińska, Grzegorz Makowski, Mark Solon-Lipiński, Instytut Spraw Publicznych, Warszawa 2012, p.76

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other equivalent state offices settling matters regarding by making administrative decisions regarding relations between local government, government administration bodies and state authorities and other entities appointed by law;

- ❖ **central government administration bodies;**
- ❖ **voivodes** – territorial representatives of the government on regional (voivodship) level;
- ❖ **other territorial government administration bodies** - acting on behalf of the voivode or on their own behalf (combined and non-combined);
- ❖ bodies of **regional self-government** units (marshal office);
- ❖ bodies of **local self-government** units (counties and gminas);
- ❖ **bodies and entities** established by operation of law or on the basis of agreements for solving individual cases based on administrative decisions.

In Poland state authorities are responsible for: foreign policy, defence and security, management of the national budget, money, justice, national public transport, national roads, some cultural institutions, enforcement of EU law, education, and statistical office.

### 3.3.2 Legislative process

Polish legal framework is part of a continental tradition of law making and is mainly influenced by German and Swiss models. According to Polish law-making framework term "sources of law" strictly refers to normative acts containing legal provisions.

Sources of law in Poland are defined in a respectively named chapter III of the Constitution. Further issues concerning sources of law are also regulated in other chapters of the Constitution. The sources of law have been systematized and hierarchized in the Constitution into two categories: a) the **universally binding acts** apply to all entities and are listed in art. 87 of the Constitution (Constitution, ratified international agreements, acts, governmental regulations, acts of local law) as well governmental regulations with the force of act, acts of European Union law, as well as - in some in scope - the Sejm's (parliament) statute and the Senate's statute; b) **internal acts** only apply to entities subordinate to the authority, that issued them are regulated in art. 93 of the Constitution (resolutions of the Council of Ministers, ordinances of the Prime Minister or minister). According to the Constitution the Polish system of legal sources is closed which means that only entities authorized by Constitution may make

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universally binding law and that the sources of universally binding law can only be those explicitly listed in the Constitution <sup>45</sup>.

*Table 14: Bodies responsible for issuing legal binding acts in Poland*

Acts by legislative bodies	Acts by executive bodies					Acts by regional bodies
Parliament (both the Senate and the Sejm)	Government	Council of Ministers	Prime Minister	Heads of autonomous regulatory bodies and local government	President	Local government
Constitution	Governmental regulation	Regulation, Resolution	Regulation, Order	Local act of law	Decree, Regulation, Ruling and Ratification of international treaties	Act
Bill						

## Sources of law

### *The Constitution*

According to art. 8 sec. 1 of the Polish Constitution, this document is the highest law in the Republic of Poland. Therefore, all legal acts in force in Poland should be consistent with the Constitution. The Constitutional Tribunal is a body entitled to assess the conformity of legal acts to the Constitution.

The Constitution is also called the 'Basic Law', as it regulates the whole structure of the legal system in the state and defines the legal principles of the state system. Therefore, as it is of highest legal force, it has a special procedure of enactment and making changes.

### *Ratified international agreements*

Among international agreements, ratified and unratified agreements should be distinguished. The sources of universally binding law are only ratified international agreements. Ratification can take place in two ways: either with the consent expressed in the form of legal Bill (Article 89 paragraph 1 of the Constitution) or through the so-called small ratification (Article 89 paragraph 2 of the Constitution) in which the Council of Ministers gives a notification to the Sejm (parliament). A special ratification procedure is provided for in Article 90 of the Constitution. It applies to situations that involve the transfer of certain competences of state

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<sup>45</sup> Subchapter is based on the brochure Materiały Szkoleniowe z Tematu Pn. „Podstawy Legislacji Dla Nieprawników”, Chancellery of the Prime Minister, Warsaw 2010;  
<https://dsc.kprm.gov.pl/sites/default/files/f34.pdf>

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authorities to international organizations or international bodies. International agreements are ratified by the President. According to art. 91 par. 2 of the Constitution ratified international agreement expressed in a form of legal act takes precedence over national legal act.

### *European Union law*

From May 1, 2004, the European Union law became part of the legal system in Poland. EU law is divided into two main categories: primary and secondary law. The acts of primary law resulting from international agreements include, above all, the Treaty on European Union and the Treaty on the Functioning of the European Union. The main types of EU secondary legislation adopted by the EU institutions (European Parliament, Council and European Commission) are: a) the regulation - legal acts that apply automatically and uniformly to all EU countries as soon as they enter into force, without needing to be transposed into national law; b) directive - requires EU countries to achieve a certain result, but leaves them free to choose how to do so, i.e. by adopting measures to incorporate them into national law (transpose) in order to achieve the objectives set by the directive; c) decision - binding legal acts that apply only to 1 or more EU countries, companies or individuals concerned and don't need to be transposed into national law. According to art. 91 par. 3 of the Constitution, EU secondary legislation acts have priority in the event of a conflict with national acts.

### *The Bill*

The bill is a normative act of general and abstract nature, adopted by the parliament in the specific provisions of the legislative procedure. The scope of regulation of the Bill, i.e. its material scope, is unlimited. By way of a law, those matters for which this form is provided for in the Constitution must be normalized. The Constitution does not allow for regulating certain matters in a different way than by law (e.g. Article 31 paragraph 3 of the Constitution provides for the exclusivity of a statute for determining the status of an individual in a state, Article 217 of the Constitution requires that certain tax issues be determined only by way of statute). The form of the bill must also regulate those matters which until now were subject to statutory provisions. The Bill should regulate a given issue precisely and completely, with a high degree of detail, ensuring a comprehensive regulation of all matter in a given field.

### *Governmental regulation (the executive of the Bill)*

The governmental regulation is issued on the basis of a Bill and for its implementation. The authorization to issue a regulation must specify: a) the authority empowered to issue it; b) the scope of authorization; c) a clear indication that this is a regulation. According to art. 92 par. 2 of the Constitution, authorities authorized to issue governmental regulations are not allowed to sub-delegate this right to other entities. The regulation must indicate the legal basis for its

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issuance (a specific provision of the Bill). The governmental regulation must be consistent with the content of the authorization (it may not go beyond the scope of regulation specified in the authorizing provision), with the Bill and with all legislation.

### *Local acts of law*

Local acts of law include: a) resolutions of the bodies constituting local self-government units (gminas, counties and voivodships); b) ordinance of the voivode (regional representation of the national government); c) other acts of bodies that are part of territorial administration of the central government. Acts of local law are issued by local and regional self-governance authorities and territorial bodies of the central government on the basis of a respective Bill. Local acts of law must comply with legislation. The voivode exercises supervision over local self-government bodies in terms of legality. As part of the supervision exercised, it may repeal the acts of local law of the self-government units that are inconsistent with the Bills.

### ***Legislative process at national level***

To initiate the legislative process related to adoption of a Bill, it is necessary to introduce a draft to the Sejm. Only qualified subjects, who have the right of legislative initiative can do it:

- ❖ the deputies to the Sejm (a Sejm committee or a group of at least 15 deputies);
- ❖ the Senate (a resolution of the entire Chamber is necessary);
- ❖ the President;
- ❖ the Council of Ministers, i.e. the Government.
- ❖ The Constitution also provides for an opportunity for citizens to introduce a bill by means of the so-called mechanism of popular initiative; yet such a bill requires the signatures of a group of 100 000 citizens having the right to vote in elections to the Sejm.

There are, however, bills that only some of the above-mentioned subjects can submit, e.g. a draft Budget can only be introduced by the Council of Ministers. Urgent bills, which may be introduced in the Sejm only by the government, are of particular importance. Bills designated as urgent are given priority over other bills and are subject to a fast-track parliamentary passage. The difference is that the Senate has only 14 days and the President of the Republic only 7 days to consider such a bill. This enables the Government to perform the tasks most important for the State. However, some matters cannot be regulated in this way, e.g. the electoral law<sup>46</sup>.

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<sup>46</sup> Retrieved 15.10.2018 from <http://opis.sejm.gov.pl/en/procesustawodawczy.php>

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The art. 92 of the Constitution provides for a closed list of authorities authorized to issue governmental regulations: a) President; b) The Council of Ministers; c) Prime Minister; d) ministers; e) National Broadcasting Council.

Territorial self-governments are not in legal position to put forward draft bill proposals. Legislation procedure is most often initiated by the government. The Council of Ministers also operationalises Bills through executive Governmental regulations, which state how a particular Bill should be implemented and created tool for implementation.

Polish Council of Ministers operates on the basis of the government's plan of work, prepared by the head of the Prime Minister. Meetings of the Council of Ministers are not public. However, the government is obliged to inform the public about the subject of the meeting and about the decisions made. After the meetings of the Council of Ministers a memorandum of understanding is prepared, which is forwarded to members of the government, voivods, president of the National Bank of Poland, president of the Supreme Audit Office (also known as the Supreme Chamber of Control) and bodies and persons indicated by the Prime Minister. A press release is also prepared informing about the subject of the government meeting and taken resolutions<sup>47</sup>.

Draft guidelines for bills, draft normative acts and all documents regarding works on these projects are available in the Government Public Information Bulletin of the Government Legislation Center. Draft government documents, including draft normative acts and frameworks for future bills, are prepared by members of the government and the head of the Chancellery of the Prime Minister. On the basis of the frameworks adopted by the government, draft bills are prepared by the Government Legislation Center. Despite the above described solutions regarding the process of creation of draft acts by the Government Legislation Center, and not by the ministries, it still is the case that the government uses a gap that allows preparing laws at the level of ministries.

There is public transparency regarding draft acts of law and legislation procedure and a main tool of that is a public database of the draft acts of law managed by the Government Legislation Center. The database provides multi-category search engine that helps identify groups or particular draft documents that a user is looking for.

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<sup>47</sup> Mechanizmy przeciwdziałania korupcji w Polsce. Raport z monitoringu, eds: Aleksandra Kobylńska, Grzegorz Makowski, Mark Solon-Lipiński, Instytut Spraw Publicznych, Warszawa 2012, p. 80

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Figure 10: Public database of draft acts of law (Source: <https://legislacja.rcl.gov.pl/> with Google Translate web translation tool and own editing.)

The screenshot shows the website 'Rządowego Centrum Legislacji' (Government Center for Legislation) with the title 'Government Legislative Process'. The navigation menu includes: Legal status, Organizational structure, Legislation, petitions, Wealth, Public procurement, Work and internships, classifieds, Enforcement of CT judgments, and Legislative application. Below the menu, there are search filters for 'Draft frameworks for acts of law', 'Draft bills', 'Draft regulations', and 'RIA ex post'. A search bar and a 'Log in to register' button are visible. The main content area is titled 'Recently added drafts' and contains a table with the following data:

Title	Date
Projekt ustawy o zmianie ustawy o ochronie konkurencji i konsumentów oraz niektórych innych ustaw	26-10-2018
Projekt rozporządzenia Ministra Zdrowia w sprawie rejestru endoprotezoplastyk	26-10-2018
w sprawie wielokrotności kwoty bazowej, stanowiącej przeciętne uposażenie funkcjonariuszy Agencji Wywiadu	26-10-2018
zmieniające rozporządzenie w sprawie grup zaszerzgowania stanowisk służbowych funkcjonariuszy Agencji Wywiadu i stawek uposażenia zasadniczego w tych grupach oraz wzrostu uposażenia zasadniczego z tytułu wysługi lat	26-10-2018
Projekt rozporządzenia Ministra Środowiska w sprawie określenia wzoru informacji w sprawie opłaty emisyjnej	26-10-2018

Below the table, there are several filter buttons: 'Wszystkie projekty', 'Projekty zakozeń projektów ustaw' (with sub-buttons: w toku, przyjęte, archiwalne), 'Projekty ustaw' (with sub-buttons: w toku, przyjęte, archiwalne), and 'Projekty rozporządzeń' (with sub-buttons: w toku, przyjęte, archiwalne). At the bottom, there are links for 'Help' and 'contact', and a copyright notice: '© copyright by Government Legislation Center 2018'.

The Bill on the Council of Ministers allows the creation of consultative bodies, which are composed of representatives of groups of stakeholders and experts. There are many advisory and consultative councils, differing in both rank (for example the Trilateral Commission established through a bill) and the scope of competence (from very broad to narrow, for example the National Road Safety Council). In addition, in many cases, the government is obliged by law to consult draft acts of law with specific stakeholders. This matter is not regulated by a single legal act and - in the opinion of experts - a very important role is played here by the tradition of the existence of certain bodies, which, over the period of their functioning, worked out greater or lesser importance.

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Figure 11: Legislative procedure initiated by the Council of Ministers in Poland. (Source: Podstawy legislacji dla nieprawników... (2009)<sup>48</sup>)



### Work of the Sejm

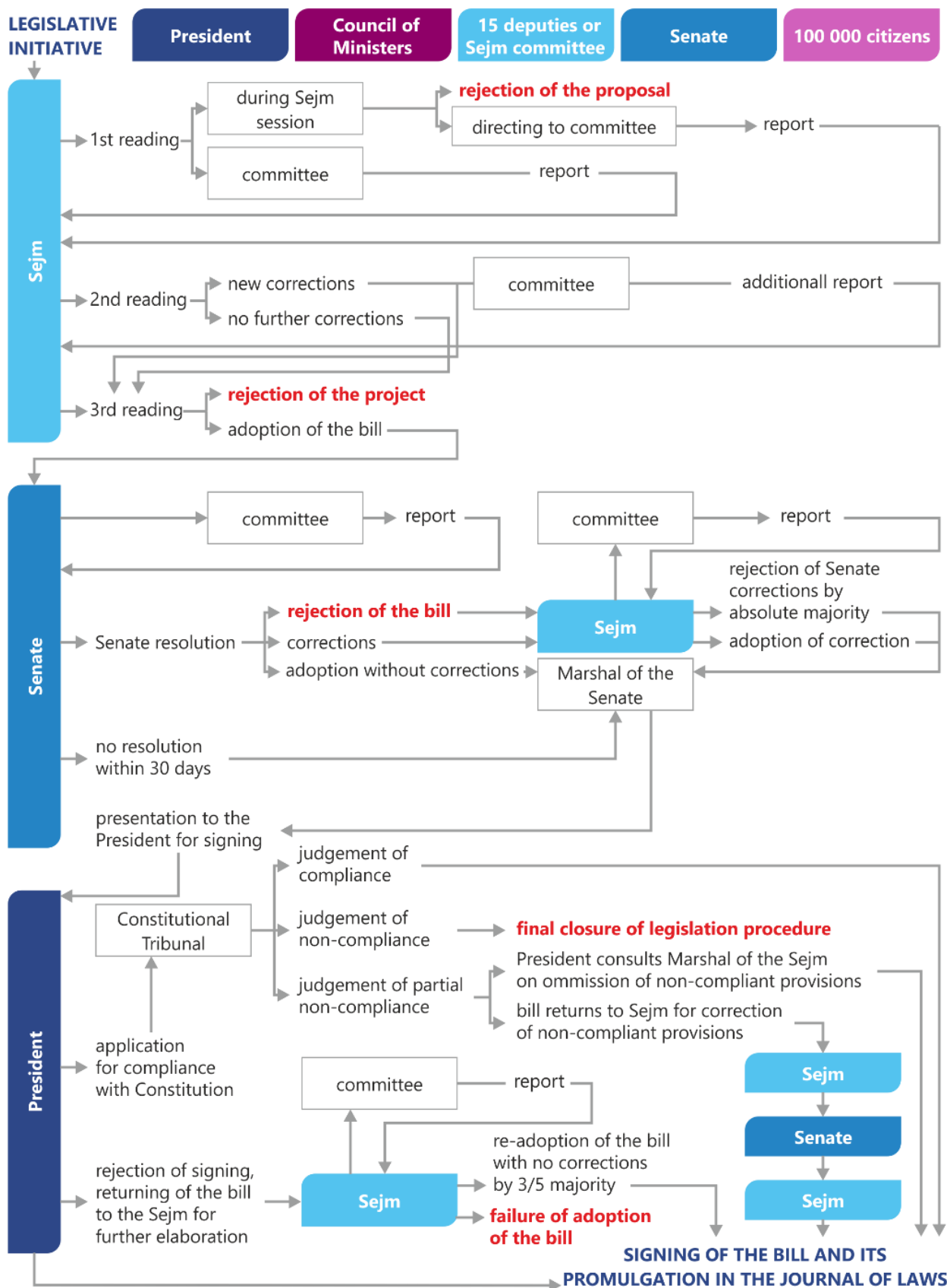
Bills are considered by the Sejm in three readings. The term “reading” comes from the fact that in the past bills were read in their entirety in the assembly room. The first reading takes place at a plenary sitting of the Sejm or at a sitting of a committee having jurisdiction over the subject matter of the proposed bill. Some socially important bills have to be presented at a Sejm sitting. These include amendments to the Constitution, the draft Budget, tax bills, bills concerning the election of the President of the Republic and elections to the Sejm, the Senate and to local self-government bodies, bills regulating the structure and jurisdiction of public authorities and also draft law codes. The first reading of a bill includes justification of the bill by its proposer, a debate on the general principles of the bill, questions of the deputies and response of the proposer. Committees may correct and change the wording of the bills while working on their provisions. Committees may also appoint a subcommittee for detailed examination of the bill; moreover, they may consult the invited specialists in a given field, i.e. experts of the committee. Having finished its work, the committee agrees upon the common position on the bill and presents it in the form of a report.

48 Materiały Szkoleniowe z Tematu Pn. „Podstawy Legislacji Dla Nieprawników”, Chancellery of the Prime Minister, Warsaw 2010; <https://dsc.kprm.gov.pl/sites/default/files/f34.pdf>

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Figure 12: Legislative procedure in Poland



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The second reading always takes place at a (plenary) Sejm sitting and includes presentation of the committee report on the bill to the Sejm and, subsequently, carrying out a debate during which other motions and amendments may be submitted. The right to introduce amendments during the second reading is provided for the proposer of the bill, a group of at least 15 deputies, a chairperson of a deputies' club or group and the Council of Ministers. If subsequent amendments and motions are submitted during the second reading, the bill is referred again to the committee which examines it, assesses it and presents an additional report to the Sejm in which it proposes adoption or rejection thereof. If the draft is not re-referred to the committee during the second reading, the third reading may take place immediately.

Subsequently, the deputies vote in a certain order on the submitted amendments and motions, either passing or rejecting them. The Sejm passes bills with simple majority of votes (the number of affirmative votes exceeds the number of negative votes) in the presence of at least half of the statutory number of deputies. In specific cases, the provisions of law provide other proportion of votes necessary for passing a bill. Subsequently, the Marshal of the Sejm submits the bill to the Senate.

### *Work of Senate*

Having received a bill passed by the Sejm, the Marshal of the Senate refers it to the relevant Senate committees (one or more) which examine it within 18 days and work out the draft position of the Senate concerning the bill; or, in the case of urgent bills or those implementing the European Union law – within the deadline specified by the Marshal of the Senate. Next, a debate and voting take place at a Senate sitting, resulting in the adoption of a resolution by the Senate. The resolution may include a motion to accept the bill without amendments (in this case it is referred by the Marshal of the Sejm to the President of the Republic of Poland for signature), or a motion to reject the whole bill or to introduce amendments into its text (in this case the bill is referred back to the Sejm). The time limit for the Senate to undertake a decision concerning a bill is 30 days from its submission in the case of regular bills (20 days in the case of the draft Budget and 14 days for urgent bills). If the Senate fails to submit amendments or to reject the bill within these time limits, the bill is considered passed according to the wording adopted by the Sejm.

### Consideration of the Senate resolution

If the Senate adopts on time a resolution including amendments to the bill passed by the Sejm or rejecting the bill as a whole, it is referred by the Marshal of the Sejm to the committee which dealt with the bill before. The committee, with the participation of the Senator-

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Rapporteur<sup>49</sup>, debates over the Senate's position and presents another report with the proposal to approve the Senate's amendments entirely, in part, or to reject them.

The Sejm may reject the Senate's amendments, as well as the motion to reject the bill by an absolute majority of votes (the number of affirmative votes exceeds the number of negative votes and abstentions) in the presence of at least half of the statutory number of deputies. If there is no absolute majority, the final text of the bill will include the Senate's amendments. In the case of voting on the Senate's resolution on the rejection of the bill, the lack of majority means that the bill dies and does not become a law.

When the position of the Senate is considered, the Marshal of the Sejm refers the bill to the President of the Republic for signature.

### *Work of the President*

The President of the Republic of Poland signs the bill within 21 days following its submission (7 days in the case of urgent bills and draft Budgets) and orders its promulgation in the Journal of Laws ("Dziennik Ustaw"). The promulgation is necessary for the bill to become a law (to come into force) and, afterwards, a specified period of time has to elapse, so-called 'vacatio legis', i.e. the time necessary for citizens to get to know it and to get prepared for implementing it.

The President has a right to refuse to sign the bill and can refer it back, with reasons given, to the Sejm for its reconsideration (so-called 'suspending veto'), which means that the Sejm (but not the Senate) is to consider it again. There is no possibility of introducing any amendments at this stage.

If the Sejm overrides a President's veto by a majority of 3/5 votes in the presence of at least half of the statutory number of deputies, the President has no other choice than to sign the bill and order its promulgation. In the case when there is no such a majority, the legislative process is finished and the bill will not come into force.

The President, in the case of any legal doubts concerning the bill passed by the Sejm, may make an application to the Constitutional Tribunal concerning the conformity of the bill with the Constitution. Nevertheless, if the President exercises this right, he cannot use the suspending veto.

Having considered the matter, the Tribunal decides whether the bill is constitutional. If the Tribunal states that the bill is consistent with the Constitution, the President is obliged to sign it. If the Tribunal finds the entire bill inconsistent with the Constitution, the President has to refuse to sign it.

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49 The Senator-Rapporteur is chosen by the committees from among their members in order to impartially present to the Senate the suggestions contained in the given committee report.

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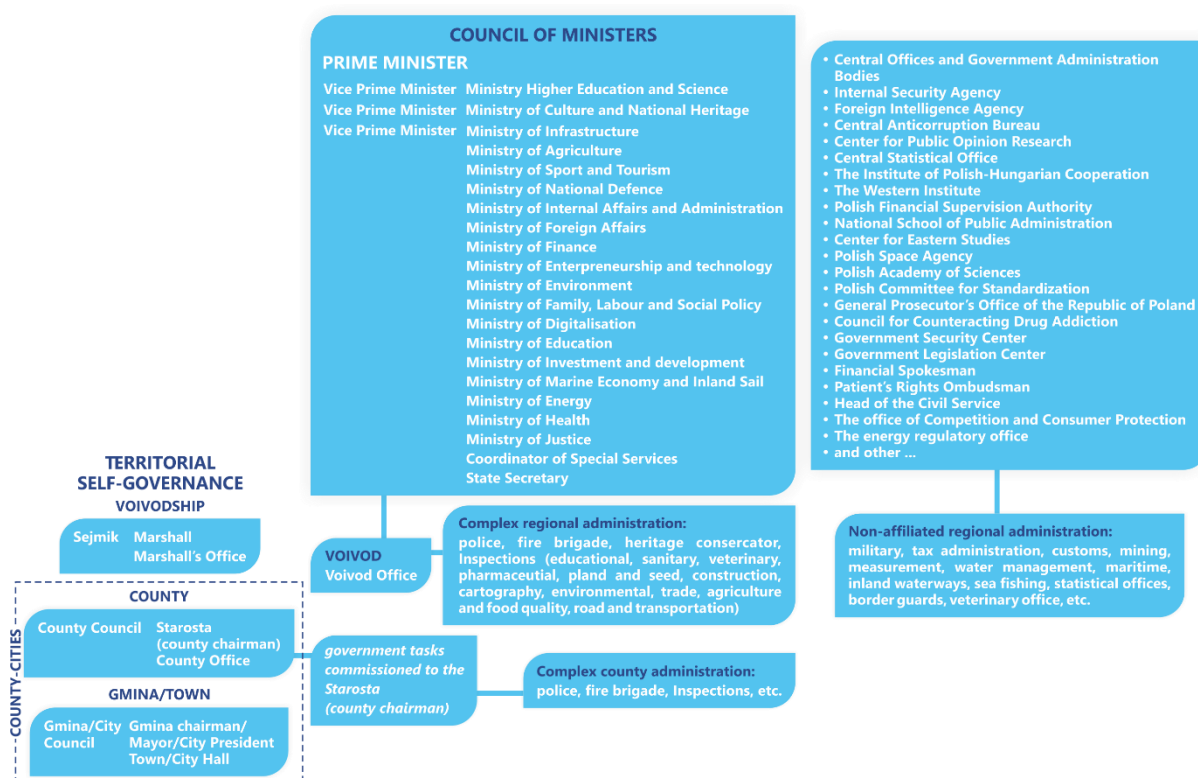
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It may also happen that the Tribunal decides that only some provisions are inconsistent with the Constitution. If such provisions are not inseparably connected with the bill, the President, after obtaining the opinion of the Marshal of the Sejm, may sign it with the omission of those provisions, or return it to the Sejm for the purpose of removing the non-conformity. In such a case the Sejm and, next, the Senate deals again with the bill to change its provisions so that they were in conformity with the Constitution. Afterwards, the corrected bill is again referred to the President for signature.

The presented scheme of legislative process does not include all the differences concerning the consideration of urgent bills, bills amending the Constitution, bills implementing the European Union law, draft Budget, bills signed by 100 000 citizens or law codes. The purpose of the differences is to ensure passing the bills in a proper time (e.g. draft Budget) or to ensure their elaborateness (e.g. amendments to the law codes).

### Legislative process on regional and local level

Figure 13: Competences of government and self-government institutions in Poland (own elaboration based on literature review)



Parallel to self-governance units (gminas, poviats and voivodships) there is a deconcentrated network of territorial state administration directed by regional governors called Voivods (wojewoda), who are directly appointed and supervised by the Prime Minister after the Minister of the Interior and Administration presents possible candidates for these positions.

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Duties of the Voivod include supervision of territorial units of government administration in regions and counties (police, social care, inspections of environment protection and guards) and the supervision of local self-government units with regard to compliance with the law. The Voivod also appoints or approves Commanders-in-Chief and Heads of Inspection.

The principle of decentralisation is defined by the Constitution (Art. 15). Moreover, the Constitution describes the principles underlying local government (Art. 163-172): local self-government units possess legal personality and have property rights. They may associate themselves in order to fulfil tasks of common interest. Local government units have legislative powers for areas of local interest (Art. 94). The residual competences lay in gminas (in other words it performs all tasks of local government not reserved to other units of local government.). The Prime Minister exercises supervision over local government units (Art. 148).

Besides the Constitution of 1997, various acts give set out the territorial organisation and division of powers:

- ❖ The 1990 Bill on Municipalities;
- ❖ The 1998 Bill on the three-tier division of the country;
- ❖ The 1998 Bill on the Regions;
- ❖ The 1998 Bill on the governmental administration of the Regions;
- ❖ The 1998 Bill on the Counties; and
- ❖ The 2003 Bill on Local Government Revenue<sup>50</sup>.

*Table 15: Competences of self-government in Poland according to territorial level (Source: own elaboration based on Bills regarding self-government units.)*

Self-government level	Thematic fields of competence and regulation
<b>Regional level: Voivodship  Voivodship Sejmik (regional council; legislative power)  Voivodship Marshall Office (executive power)</b>	Economic development; Employment and labour market policy (fight against unemployment); Protection of employees claims in case of employer insolvency; Transport (regional roads and transport management); Telecommunications; Health (health promotion, specialised health services, medical emergency and ambulance services); Regional cultural institutions; Planning (spatial development; water management, land amelioration; maintenance of hydro-installations); Rural areas modernisation; Education (running post-secondary schools, some secondary schools and vocational schools, teacher training colleges, voivodship libraries; initiating the establishment and financing of higher education); Social welfare;

50 <https://portal.cor.europa.eu/divisionpowers/countries/MembersNLP/Poland/Pages/default.aspx>

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Self-government level	Thematic fields of competence and regulation
	<p>Sports and tourism;</p> <p>Consumer rights protection;</p> <p>Defence;</p> <p>Maintenance of public order;</p> <p>Environmental protection; and</p> <p>Pro-familial policy (including family support and foster care system).</p>
<p><b>Intermediate local level: Poviat (County)</b></p> <p><b>County Council (legislative power)</b></p> <p><b>County Chairman Office (executive power)</b></p>	<p>Sports and tourism;</p> <p>Geodesy and cartography;</p> <p>Real estate management, architecture and buildings administration;</p> <p>Water resources management;</p> <p>Agriculture, forestry and inland fisheries;</p> <p>Cooperation with NGOs;</p> <p>Education (secondary education, i.e. post-elementary schools, vocational and special schools);</p> <p>Environmental protection;</p> <p>Health (general responsibility for the operation of the public health service institutions);</p> <p>Consumer protection;</p> <p>Social welfare (services that extend beyond the gminas' boundaries; support to the disabled; maintenance of poviat facilities and public utilities);</p> <p>Child protection (running tutelary and educational facilities, including orphanages);</p> <p>Employment (poviat labour office; fight against unemployment);</p> <p>Transport (road building and maintenance at poviat level);</p> <p>Telecommunications;</p> <p>Defence;</p> <p>Civil protection;</p> <p>Flood protection;</p> <p>Fire protection;</p> <p>Maintenance of public order and collective security; and</p> <p>Support to cultural institutions (culture and monuments).</p>
<p><b>Basic local level: Gmina / city</b></p> <p><b>Gmina / City Council (legislative power)</b></p> <p><b>Gmina Chairman/ Mayor / City President</b></p>	<p>Spatial planning (local planning; water and supply sewage treatment; maintenance of landfills);</p> <p>Real estate management;</p> <p>Public areas (including cemeteries);</p> <p>Transport (local roads; local public transport);</p> <p>Telecommunications;</p> <p>Environment (protection; zoning and local environmental protection);</p> <p>Electricity, gas and heat supply;</p> <p>Health (primary healthcare services);</p> <p>Social welfare;</p> <p>Family support and foster care system;</p>

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Self-government level	Thematic fields of competence and regulation
	Maintenance of gmina buildings and public facilities; Market places; Housing; Culture (promotion, management of municipal libraries and other cultural institutions, monument protection); Sports (promotion); and Education (kindergartens; elementary education)

## 3.4 Slovakia

### 3.4.1 Political structure

According to the first article of the Constitution, the Slovak Republic is a sovereign, democratic state that is governed by the rule of law. The governmental system of the Slovak Republic is parliamentary democracy with republican form. This means that people have the real power, but they delegate their power to the Members of the National Council (Parliament) through general elections in every four years.

The political system of the Slovak Republic is built on the idea of three branches, where the power is separated. Individual branches of power are independent from each other and have specific tasks, roles and functions in everyday life of the republic. The executive power is divided between the President and the Government of the Slovak Republic. The former is the Head of the State of the Republic. The President represents the Slovak Republic externally and internally, ensures the regular operation of constitutional bodies through his/her decisions. The President is elected by the citizens in direct elections by secret ballot for a period of five years. The Government of the Slovak Republic is the supreme executive body, it consists of the Prime Minister, Deputy Prime Ministers and Ministers. The Prime Minister is appointed and recalled by the President. The Government is responsible for the exercise of governmental powers to the National Council. The National Council of the Slovak Republic shall be the sole constitutional and legislative body of the Slovak Republic. The third branch of the power system is the judiciary with the Constitutional Court, which shall be an independent judicial authority vested with the mandate to protect the constitutionality, and with the independence from other state authorities at all levels and impartial courts.

According to the Constitution, which was adopted in 1992, the Republic represents a unitary state which is divided into eight administrative regions. These self-governing regions correspond to the EU's NUTS 3 level of local administrative units and they are further divided into 79 districts. The basic unit of territorial self-administration shall be the municipality.

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### ***Legislative power***

The highest legislative power is represented by the National Council of the Slovak Republic which is based on unicameral system. It consists of 150 members who are elected by universal, equal and direct suffrage by secret ballot. Those citizens are eligible to be elected to the National Council of the Slovak Republic who has the right to vote, who has attained 21 years of age and who has permanent residency in the Slovak Republic. The election threshold into the National Council is 5% for the political parties.

The National Council is responsible for wide spectrum of tasks and roles that are defined by the article 86 of the Constitution. The National Council adopts the Constitution, constitutional laws and supervises their implementation; approves the treaties on a union of the Slovak Republic with other states and also the repudiation of treaties; decides about declaration of a referendum; approves international treaties; establishes Ministries and other governmental bodies; monitors the activities of the Government, its programme proclamation, debates on vote of confidence regarding the Government or its individual members; approves state budget, supervises budgetary policy and approves the final state budgetary account; performs debate on domestic, international, economic, social and other policies; elects and recalls the Chairman and Vice-Chairman of the Supreme Audit Office and three members of the Judicial Council; in the event of an act of aggression it declares war and concludes peace; gives consent for dispatching the military forces outside of the territory of the Republic; and it approves the presence of foreign military forces on the territory of the Republic.

The National Council of the Slovak Republic shall be continually in session. If more than half of the members are present then the National Council has a quorum. The consent of more than half of the members is required for a valid resolution. The consent of the absolute majority of all members is required to approve some international treaties, and to adopt a law returned by the President of the Slovak Republic. The consent of a three-fifths majority of all members is required to adopt or amend the Constitution, constitutional law, to approve some international treaties, to adopt a resolution on plebiscite on the recall of the President of the Slovak Republic, to bring a prosecution of the President and to declare war on another state.

### ***Executive power***

The Government of the Slovak Republic is one of the highest executive bodies besides the President. It consists of the Prime Minister, Deputy Prime Ministers and Ministers and is responsible for the exercise of the governmental powers. The leader of the government is the Prime Minister, who is appointed by the President. The President shall also appoint and recall the Ministers on the proposal of the Prime Minister and empower them with the administration

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of the Ministries. The Prime Minister is usually the leader of the majority party or of the majority coalition of the National Council of the Slovak Republic.

The Government is a collective body and decides basically as a body. Its competences include drafting laws, adopting governmental regulations, government programme and its implementation, drafting state budget, international treaties entered into force by the Slovak Republic. It has the power to issue regulations, to implement laws within limits laid down by the law. In addition to regulations, the Government has the power to issue resolutions, but they do not have the character of a generally binding legal regulation, and they are binding only within the scope of state administration bodies.

The activity of the Government, its organization, the competences are regulated by the Act No. 575/2001 Coll. on the organization of government activities and organization of central state administration.

The Ministries are involved in the creation of unified state policy within the scope of their competence; they perform the state administration and other tasks stipulated by the law. At present, 13 Ministries are operating. The Head of the Ministry is a member of the Government – the Minister, who manages a certain section of the state administration and is responsible for fulfilling the assigned tasks and for the activities of the Ministry. At the time of his absence, he is substituted by the State Secretary, within the scope of his rights and duties. The Minister may also in other cases entrust the State Secretary to represent him in the scope of his rights and duties.

The State Secretary is appointed and recalled by the Government on the proposal of the respective Minister. In justified cases, there can be appointed more than one State Secretary within one Ministry, particularly in the cases of multi-sectoral Ministries. Ministries, on the basis of law and within its limits, are able to issue public statutes referred to as decree.

In general, the main tasks of the Ministries are:

- ❖ to elaborate the conception of the development of entrusted areas;
- ❖ to prepare for the Government drafts of necessary legislative modifications and to take care of appropriate legal regulation of matters within their competence;
- ❖ to manage and control activities of subordinated bodies within their department;
- ❖ to develop international cooperation in matters falling in their scope of competences and to participate in the fulfilment of international obligations.

Local state administration is performed in the Slovak Republic by the District Offices. District Offices execute state administration in the fields of civil protection of the population and the state management in crisis situations out of time of war and beligerency, economic

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mobilization, land registry, defence of the state, environmental management, regional development, road traffic and communication over land, agriculture, forestry economy, hunting and reparcelling, general internal administration and entrepreneurship. The District Office is headed by the Head of Office, who is appointed and recalled by the Government on the proposal of the Minister of Interior. The District Offices issue generally binding legal regulations in the form of a Decree.

*Table 16: Bodies responsible for issuing legally binding acts in Slovakia*

Acts by legislative bodies	Acts by executive bodies			Acts by regional bodies
National Council	Government	Ministries	President	Municipal and city authorities
Constitutional law	Governmental regulation, Non-generally binding resolution	Decree, Declaration, Measure	Decree, Regulation, Ruling and Ratification of international treaties	Generally binding regulation

### ***Local and regional self-governments***

Local and regional self-governments are represented by the municipalities and higher territorial units, which are independent territorial and administrative units associating individuals permanently residing therein. The main objective of these self-governments is to take care about all-round development of the territory and about the needs of its population. In matters of self-administration, they issue generally binding regulations. The head of the municipality is the mayor, who is elected by the residents. He is concurrently the executive authority of the municipality, coordinates the work of the municipality administration, and represents the municipality externally. The same tasks are carried-out by the head of higher territorial unit.

The municipalities and higher territorial units may, within the scope of their competence, cooperate with the territorial and administrative units or with the offices of other states exercising territorial functions. They have a right to become a member of an international association of territorial units or territorial authorities. The cooperation shall take place on the basis of a cooperation agreement.

This partnership can focus on a range of activities arising from the competence of municipalities or higher territorial units specialized in regional and sustainable development in areas such as education, health care, tourism, transport, environment, local services etc. These agreements which are not legally binding must be at first approved by the municipal council. They should contain the reasons for the conclusion of the partnership and the main interests and objectives of cooperating bodies.

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### 3.4.2 Legislative process

#### ***Legislative system at national level***

The legal framework of law-making processes on different levels is laid down by the Constitution of the Slovak Republic.<sup>51</sup> Pursuant to the Constitution, the National Council (the Parliament) of the Slovak Republic is the sole constitutional and legislative body. The National Council is the only authority, which has the power to adopt the Constitution, constitutional laws and other laws, and to supervise their implementation. The rules of proceeding and the activities of the National Council and its committees, including the process of adopting an Act, are regulated by the Act on the rules of procedure of the National Council of the Slovak Republic.<sup>52</sup>

*Table 17: Brief summary of the legal system of the Slovak Republic and the competent authorities*

<b>SLOVAK AUTHORITIES WITH THE POWER TO ADOPT LEGAL PROVISIONS (STATUTORY BODIES)</b>	<b>THE FORM OF LEGAL PROVISION</b>
National Council of the Slovak Republic	Constitution, constitutional acts, acts, international treaties higher than acts, international treaties with the force of an act
Government of the Slovak Republic	Government regulations
Ministries and other central state government bodies	Decrees, declarations, measures
Municipal and city authorities	Generally binding regulations
Citizens (voters) of the Slovak Republic	Results of a referendum with a force of a constitutional act, results of a referendum with the force of an act
Residents of a municipality	Results of a local referendum with the force of a generally binding regulation

By means of §67 of this Act, bills may be tabled by:

- ❖ Committees of the National Council of the Slovak Republic;
- ❖ Members of Parliament;
- ❖ The Government of the Slovak Republic.

The legal system differentiates between parliamentary and governmental draft laws.

In the case when the legislative initiative comes from the Parliament, the more detailed rules regulating the *way of law-making, details about the procedure of their preparation, submission*

<sup>51</sup> No. 460/1992 Coll., available at <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/1992/460/20141201.html> in Slovak language, in English available here <https://www.prezident.sk/upload-files/46422.pdf>

<sup>52</sup> The Act No. 350/1996 Coll., available in Slovak language here <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/1996/350/>

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*and negotiation*, including their form are summarised in Legislative Rules of Law-making.<sup>53</sup> When the draft Act is tabled by the Government, more precise rules are included in the Legislative Rules of the Government of the Slovak Republic.<sup>54</sup>

The Government of the Slovak Republic is the most frequent initiator of submitting proposals. It is not the Government itself which drafts laws but the relevant Ministry or other central state administration body. Which body draws up a bill, it depends on the thematic focus of the law. Ministries and other central state administration bodies examine the issues in matters within their competence and analyze the results achieved. They take action in order to solve current issues and elaborate the concepts of development of entrusted areas. They are responsible for proper legal regulation of the matters falling within their competence. They prepare draft laws and other generally binding legal regulations, publish them and submit to the Government after discussion in the commenting procedure. They also care about observance of the lawfulness in their area of responsibility.

The Government, in a certain part of the legislative process, deals with draft laws and decides whether to pass the bill to the next legislative process (to the National Council). If the draft law is approved, or more precisely approved with comments, then it is a government bill. Prior to approval of the draft bill by the Government, its impact on the state budget, on entrepreneurial environment, on informatization of the society and on public administration services must be assessed. The draft is discussed with the competent authorities and institutions, in particular with those, whom the tasks should be imposed by the bill or which are concerned by the problems.

The next stage of the legislative process is the 'interdepartmental comment' procedure, in which other Ministries can express their views on the draft. Even the public can make comments to the proposal according to the fact, that every draft must be published on the website of the relevant Ministry. After this stage, the Legislative Council of the Government gives its opinions to the draft bill, which is the advisory and coordinating body of the Government in the field of legislation. It prepares the plan of legislative tasks of the government for each year. Its role is *inter alia* to discuss the accordance of the proposed laws and legislative intentions with the EU law, the European Council conventions and with international treaties that are binding for the Slovak Republic.

According to the content of the proposed bill, especially when it regulates the economic, social, labour and wage, employment and business conditions, the Economic and Social

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53 No.19/1997 Coll. available in Slovak language here [https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/1997/19/vyhlasene\\_znenie.html](https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/1997/19/vyhlasene_znenie.html)

54 Available at file:///D:/Stiahnute/2016\_05\_legislativne-pravidla-vlady-slovenskej-republiky-schavelne-uznesenim-vlady-slovenskej-republiky.pdf

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Council of the Slovak Republic, which is a consultative body of the Government, adopts a standpoint. Its position is also recommendatory for the Government.

The bills submitted to the National Council are set out paragraph by paragraph with an explanatory memorandum, which includes an assessment of the current state, in particular from the social, economic and legal point of view, including the reasons for the need of new legal regulation, the way of its implementation, the impact on the economic and social situation.

In accordance with the Rules of Procedure of the National Council of the Slovak Republic, bills go through three readings. The first reading involves a general debate on the substance of the draft bill. The initiator (the most often, this is the relevant Minister) introduces the draft bill. Subsequently, the general debate is held. After that, the members of the Parliament can comment on the bill. At this stage no amendments or additions may be tabled. If the National Council adopts a resolution that the draft bill is to be negotiated at the second reading, the draft is consequently delivered to relevant committees.

The following committees of the National Council are set up directly by law: Mandate and Immunity Committee, Incompatibility of Functions Committee, European Affairs Committee, Constitutional and Legal Affairs Committee. Besides these Committees, 15 further ones are operating. The National Council sets up the Committees from among its members as its initiative and control bodies. The Committees shall submit to the National Council the draft laws and other recommendations on matters falling within their sphere of competence and shall monitor its observance and its implementation and whether the regulations issued for their implementation are consistent with them.

During the second reading, the bill is discussed by the National Council Committees to which it has been assigned. Every bill must pass through the Constitutional and Legal Affairs Committee in particular as regards its compatibility with the Slovak Constitution, constitutional acts, international treaties binding on the Slovak Republic, acts and European Union law. The outcome of the Committee discussion shall be a written report, which shall include the opinion of the Committee on the proposal, the amendments and additions to the National Council, and recommendations to the Council whether to approve the proposal or not. If the proposal has been assigned to more than one Committee, they shall submit a joint written report to the National Council, which is elaborated by the Coordination Committee. This report forms the basis for the National Council discussion, and vote on the second reading bill.

In case the Coordination Committee did not recommend to the National Council to return the draft law to the initiator to complete it, or to postpone the debate or not to proceed with

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debate (in this cases the National Council shall vote on these proposals of the Committee) the draft law is proceeded to a debate in the plenary session of the Council. In these sessions, the Members of the Parliament may table amendments and additions to the draft law. The submission of such proposals requires the consent of at least 15 members.

At the end of the debate, the vote shall be taken at first on the amendments and additions tabled during the session. If they weren't tabled, a vote shall be taken on the proposals compiled in the joint report of the Committees.

The third reading is restricted to those provisions of the bill for which amendments or additions were approved at the second reading. During this phase the members of the Parliament may propose only corrections of legislative drafting errors, grammatical and spelling mistakes. Amendments or additions intended to eliminate any other errors must be put forward by at least 30 members. The same number of people is required for submitting a proposal to repeat the second reading. After these steps, the bill is voted in its whole.

The National Council of the Slovak Republic has a quorum, if more than half of all the members of the Parliament are present<sup>55</sup>. The Constitution may be adopted or amended and individual articles repealed only if passed by a qualified majority, which means three-fifths of all the Members. For a law to be passed, it must be voted for by at least half of the members being present.

The adopted bill is signed by:

- ❖ the President of the Slovak Republic,
- ❖ the President of the National Council,
- ❖ the Prime Minister.

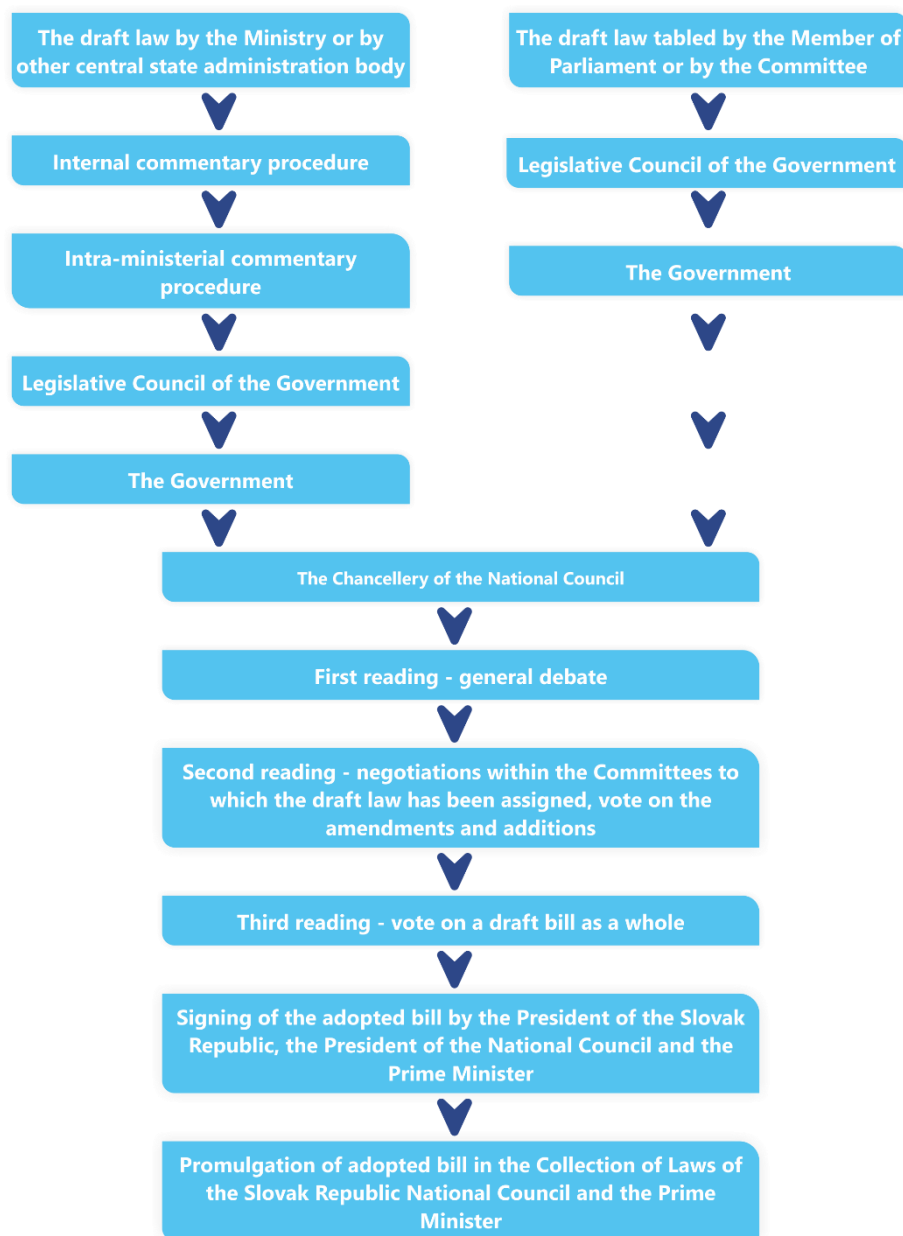
The President has the right to exercise what is called a 'suspensive veto' and refuse to sign an adopted act on the grounds of faulty content. If the President of the Slovak Republic returns an act with his comments, the National Council shall discuss the act again and in case of its adoption, it must be promulgated (even without the signature of the President). In this case, the consent of the absolute majority of all Members of the Parliament is required.

The final stage of the legislative process is the promulgation. Legal provisions of nationwide territorial application are formally published in the Collection of Laws (Codex) of the Slovak Republic. This collection falls within the remit of the Slovak Ministry of Justice.

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<sup>55</sup> The National Council consists of 150 Members of Parliament, elected for a four-year period

Figure 14: The legislative process from the preparation of the proposal, its submission to the National Council of the Slovak Republic to its final adoption and promulgation in the Collection of Laws of the Slovak Republic



Pursuant to the article 120 of the Constitution of the Slovak republic, the Government shall have the power to issue regulations to implement laws within limits laid down by law. However, it is not possible to impose obligations or to amend or supplement laws by government regulation. There is a commentary procedure about the draft made by the affected Ministry. Subsequently the draft is submitted to the Legislative Council of the Government for a commentary procedure. The Government has a quorum if more than half of its members are present. Adoption of a resolution by the Government requires the consent of an absolute majority of all members of the Government.

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Ministries and other central state administration bodies shall, under the laws and within their limits, adopt generally binding legal regulations provided they are empowered to do so by a law. Such a form of a generally binding legal regulation is a Decree. The draft decree including its explanatory report shall be sent by the Minister, or by the Head of other central state administration body for comments to the Ministries, other central state administration bodies or other bodies and institutions in whose field of competence the law is implemented or the issues of the draft decree are concerned. During the commentary procedure, the proposal is subsequently discussed with concerned bodies and institutions.

The draft decree adjusted by the results of the commentary procedure shall be sent to the competent working commission of the Legislative Council of the Government with a request for the discussion of the draft and to adopt a standpoint. The working commission negotiates about the draft and draws up conclusions and recommendations and notifies the initiator about the outcome. Such a draft, modified according to the opinion of the working commission is submitted for signature to the Ministry or the head of other central state administration body and subsequently published in the Collection of Laws of the Slovak Republic.

### ***Legislative process on regional and local level***

On regional level, the higher territorial units, as autonomous regions have the legislative power.<sup>56</sup> The Act No. 302/2001 on self-government of higher territorial units regulates the scope of competence, the authorities issuing the generally binding regulations, relations to other state bodies and financing. Pursuant to the Constitution of the Slovak Republic, in matters of territorial self-administration and for securing the tasks of self-administration provided by a law, the higher territorial unit may issue generally binding regulations applicable to all natural and legal persons within its jurisdiction. They shall be approved by the representative body of the higher territorial unit.

The approval is preceded by the commentary procedure. Such a draft shall be posted on the official board of the higher territorial unit and also published on its official website. Natural and legal persons may comment on the draft regulation in writing, electronically or verbally into the minute-book. By commenting they can propose a new text, or propose modifications to add, change, delete or clarify the proposed text. Subsequently these comments are evaluated by the initiator of the draft regulation together with the appointed commission.

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56 Since 1 January 2002 Competences have been transferred from State administration bodies to self-governing regions. The regional and district offices of the State administration were phased out, and their residual powers were transferred to the regional self-governments, the local State administration in the centres of regions, and to the specialised field offices of certain ministries.

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The draft regulation, which includes the evaluation of the comments submitted within the commentary procedure, is subsequently discussed by the representatives of the higher territorial unit. The council has a quorum, if more than half of its members are present. For a valid regulation, the consent of a three-fifth majority of all members is required. If the council does not reach a quorum, the head of the higher territorial unit shall convene a new session within 14 days.

The legal control of sub-national acts is carried out by a public prosecutor who represents the state. He is responsible for monitoring the legality of all administrative acts adopted both by sub-national self-governments and the state administration at regional or local level. On a proposal by a prosecutor, the court may decide that the generally binding regulation, its part or individual enactment are in conflict with a law of higher legal force.

The self-government of the higher territorial unit includes governance of different issues. Economic matters include economic activity management, preparation of budgets and control of their implementation, approval of final accounts, management of own property, establishment of funds, performing of own investment and business activities, decision-making in the matter of local taxes and fees.

Social affairs include the provision of conditions for the functioning and development of educational, health and social facilities, the creation of prerequisites for the development of culture, artistic activity, sport, etc.

The prosecutor also controls the elections and the establishment of bodies of higher territorial units, the decisions to announce a referendum, the development of cooperation with other higher territorial units including international cooperation. Ecological and environmental issues can include the efficient use of local human and natural resources, environmental management, the creation of appropriate conditions for tourism development.

Certain powers of local self-administration are delegated to a higher territorial unit. Autonomous regions represent the state administration in the assigned areas. They have a role in the field of road communication and traffic, civil protection, social assistance, regional development and tourism. The performance of transferred state administration is subject to governmental control. Also in these matters, the higher territorial units may issue generally binding regulations based on the empowerment of the law within its limits.

The local municipalities are by means of the Constitution of the Slovak Republic the basic units of territorial self-administration. The legal status of the municipality and its competences are regulated by the Act No. 369/1990 on Municipalities.<sup>57</sup>

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<sup>57</sup> The country's two main municipalities, Bratislava and Košice, have special status and are sub-divided into city districts.

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Municipalities may issue generally binding regulations applicable to all natural and legal persons within their jurisdiction level. The adoption process is basically the same as the process of adopting the generally binding regulation by the higher territorial unit: the municipal council votes on the draft regulation. The difference lies in the numbers of votes required for the adoption of the regulation. While the adoption of the regulation by the higher territorial unit requires the consent of three-fifth majority of all the members of the council, for the adoption of a regulation by the municipality the three-fifth of present members is sufficient.

The municipality has a competence in following fields: second and third class roads, territorial planning, regional development, own investment activities, secondary schools, hospitals, certain social service establishments (retirement homes, social services for children, crisis centres, children's homes, etc.), cultural institutions (galleries, museums, theatres, certain libraries, etc.), participation in civil defence, licensing of pharmacies and private physicians.

As a subject of transferred state level competences, the local municipality has certain powers in the road communication sector, in spatial planning, in nature protection, education, healthcare and road transport.

## 4. ANNEX II. Main governmental units engaged in the V4 cooperation

### 4.1 Czechia

Ministry	Unit	Main tasks	Contact
Office of the Government	Section on European Affairs	This section is a part of the advisory bodies to the PM, also deals with the foreign policy, mainly European affairs and V4 coordination, which has been important topic mainly since the escalation of migration crisis in 2015.	Mr Aleš Chmelař, State Secretary for European Affairs, + 224 002 644
Ministry of Foreign Affairs	Department of States of Central Europe	Territorial cooperation under the V4 umbrella has an important role in the Long-term Conception of Czech Foreign Policy	Mr Tomáš Kafka, director of the department, Tomas_kafka@mzv.cz
Ministry of Defence	Section of Defence Policy and Strategy	Long-term vision of Visegrad countries on deepening their defence cooperation	Mr Jakub Landovský, section chief, sekretariat.nmo@army.cz
Ministry of Education, Youth and Sports	Department of International Cooperation	Framework Action Plan of Cooperation between Visegrad Group and Eastern Partnership Countries in the Youth Field	Ms Veronika Peterová, head of bi- and multilateral cooperation unit of International Department Veronika.Peterova@msmt.cz
Ministry of Industry and Trade	Department of European Affairs and Internal Market	The Visegrad Patent Institute and supporting research and innovations	Martin Bednář, director bednarm@mpo.cz
Ministry of Transport	Department of International Affairs and the EU	Cooperation on high-speed railways	Michal Fridrich, director sekretariat.530@mcdcr.cz
Ministry of Labour and Social Affairs	EURES in the Czechia – Czech Employment Services Office	The cooperation in the field of European labour offices cooperation - EURES	Co-ordination of EURES in the Czechia +420 844 844 803

### 4.2 Hungary

In case of Hungary such information are not public.

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### 4.3 Poland

Ministry	Unit	Main tasks	Contact
<b>Ministry of Foreign Affairs</b>	<b>vice-minister Konrad Szymański State Secretary for</b>	Ministry of Foreign Affairs is most directly responsible for managing, preparing and setting the agenda for the V4 Cooperation. State Secretary for European Affairs is responsible for general political cooperation with V4 countries	Tel.: +48 22 523 9201 SM.Sekretariat@msz.gov.pl
	<b>European Policy Department</b>	The vice-director of the EPD, Leszek Hensel is the National Coordinator of the Visegrad Cooperation. This department coordinates the government administration in the field of implementing EU law into the Polish legal system and gives opinions on legally binding acts of law in terms of compliance with EU law. In addition, the Department coordinates government administration activities as part of the proceedings of the European Commission regarding violations of EU law and Poland's participation in proceedings before EU courts and the EFTA Court. Additionally, prepares analyses in the field of EU law for the government administration. A particular unit responsible for V4 cooperation is Section of Central Europe. This Department has also developed and coordinated implementation of the Polish Presidency agenda in the V4 Group in 2016/17.	vice-director Leszek Hensel. National Coordinator of the Visegrad Cooperation leszek.hensel@msz.gov.pl  A working coordinator responsible for organising V4 cooperation on current V4 issues is Robert Szadurski (Robert.szadurski@mzs.gov.pl+48225239150)  Tel: +48225239175; DPUE.Sekretariat@msz.gov.pl
	<b>Department of the Committee for European Affairs</b>	This department coordinates the government's European policy in the internal dimension (through the European Affairs Committee) and as part of the EU decision-making process. In particular, it is responsible for the preparations for the European Council and the General Affairs Council. It participates in the work of the sectoral policies, like: economic and financial policy, energy, environmental protection and climate, transport, social policy and employment, justice and home affairs, health, consumers, culture, telecommunications as well as agriculture and fisheries. The department is also the secretariat of the Committee for European Affairs.	Tel.: +48225237120, +48225237145 DKSE.Sekretariat@msz.gov.pl

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<b>Ministry</b>	<b>Unit</b>	<b>Main tasks</b>	<b>Contact</b>
	<b>EU Economic Department</b>	The Department carries out tasks in the field of European economic affairs. It is leading horizontal European policy processes such as: review of the Regulation on the Multiannual Financial Framework of the EU budget for 2014-20, develops and implements the energy and climate policy, including the Energy Union, the socio-economic strategy of the EU, internal market policy, innovation and the Digital Agenda. It runs an "early warning" system for EU projects including the involvement of interested parties in Poland in the process of preparing an impact assessment for the most important future legislative proposals of the European Commission. It co-creates, in cooperation with relevant ministries, Poland's positions in relation to economic strategies, economic and monetary union reform, cohesion policy, Common Agricultural Policy, EU funding, energy policy, climate policy, commercial policy, industrial policy and other sectoral policies.	Tel .: +48 22 523 7275 DEUE.Sekretariat@msz.gov.pl
<b>Ministry of Investment and Development</b>	<b>Department of Territorial Cooperation</b>	The Department is responsible for the 1. implementation of tasks resulting from the functions of the Managing Authority and the National Coordinator for the ETC, ENPI and ENI 2007-2013 and 2014-2020 programs, the National Contact Point for transnational programs and interregional cooperation programs of the ETC 2014-2020; 2. implementation of tasks resulting from the Minister performing the function of the Managing Authority for the ENPI, the Managing Authority and the National Institution for ENI programs. It is also partly responsible for the implementation of the ETC programs and the European Grouping of Territorial Cooperation.	tel. 22 273 81 50 sekretariatDWT@miir.gov.pl

Ministry	Unit	Main tasks	Contact
	<b>Departament Spraw Europejskich i Współpracy Międzynarodowej</b>	<p>The Department is responsible for conducting a coherent European and international bilateral and multilateral policy of the Ministry including:</p> <ul style="list-style-type: none"> <li>❖ coordination of the cooperation of the Ministry's management with the EC, the European Parliament and other EU institutions and the country holding the EU presidency, coordination of matters related to EU membership within the Ministry, including the development of Poland's position on issues arising from the Minister's competence at the level of the European Council, EU Council, The COREPER and agreeing and accepting travel instructions for the meetings of the EU Council, subsidiary bodies of the EC and the EU Council, and the EP Commission.</li> <li>❖ use of cooperation within the EU for the implementation of cohesion policy, country development strategy, increase of competitiveness, National Strategy of Regional Development and effective management of EU Funds.</li> <li>❖ overseeing the monitoring of transposition of EU law and monitoring of EC proceedings related to the lack of transposition or incorrect transposition of EU regulations, as well as proceedings before the Court of Justice of the EU and the EFTA Tribunal;</li> <li>❖ coordination and implementation of the legislative process resulting from the obligation to transpose the Directive on the availability of products and services to the Polish legal order, and the substantive supervision over the activities of the department supervised by the Minister in the Permanent Representation of the Republic of Poland in Brussels.</li> </ul>	<p>tel. 22 273 78 70 sekretariatDEM@miir.gov.pl</p>
<b>Ministry of Culture and National Heritage</b>		<p>V4 coordinator for cultural cooperation: Piotr Mączka</p>	<p>pmaczka@mkidn.gov.pl</p>

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## 4.4 Slovakia

Ministry	Main tasks	Contact
<b>Ministry of Foreign and European Affairs of the Slovak republic</b>	<ul style="list-style-type: none"> <li>❖ development of relations with other states</li> <li>❖ cooperation with multi-national and international organisations</li> <li>❖ coordination of activities of state authorities oriented on the Slovak Republic's integration into European Union and North-Atlantic Alliance</li> <li>❖ monitoring and creation of international treaties and the monitoring of the observance of human rights</li> <li>❖ observance of the rights of Slovak citizens abroad and presents and spreads information about Slovakia abroad</li> </ul>	Minister: JUDr. Miroslav Lajčák, contact: miroslav.lajcak@mzv.sk
		State Secretary: Mgr. Lukáš Parížek, contact: lukas.parizek@mzv.sk
		Head of Unit of V4 State Department: Peter Hatiar : peter.hatiar@mzv.sk

## 5. ANNEX III. – Supplementary analysis to the Czech country profile

The government view of public administration in Czechia is replenished with approaches of regional policy and regional planning on cross-border, regional and local level. Within the framework of the current project this analysis mainly concentrates on Slovakia and Poland in two budgetary periods (2007-2013 and 2014-2020). This analysis is divided into three parts:

1. analysis of conceptual documents on national level;
2. analysis of conceptual documents on the regional level;
3. excerpts from the Certified methodology of Ministry of Regional Development.

### 5.1 Analysis of conceptual documents on national level

The main target of the **Common Spatial Development Strategy Of The V4+2 Countries (Společný dokument územního rozvoje států v4+2 (2010))**<sup>58</sup> is the definition of the development centres, development axes and traffic network in the V4+2 countries in compliance with the valid European and national development documents and international agreements.

The second target of the strategy is to identify the cross-border development axes and missing cross-border traffic network connections.

In the Central European context these issues/problems are included in the following national documents of the countries concerned:

- ❖ CZ: Integration of Czechia in the Central European region of the EU
- ❖ PL: Strengthening and Integration of Poland to the EU
- ❖ HU: Territorial integration to Europe
- ❖ SK: ?
- ❖ RO: Utilization of the peripheral location of Romania as a connecting line between the continental and intercontinental level
- ❖ BG: Development of the regional cooperation and support of good neighbour relations and partnerships.

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<sup>58</sup> Common Spatial Development Strategy of the V4+2 Countries: <https://bit.ly/2MVMknW>

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The **Strategy of regional development 2007-2013 (Strategie regionálního rozvoje 2007-2013)** (2006)<sup>59</sup> mentions the economical and social regeneration of the border regions, free movement of persons after joining the EU and the tasks of euroregions. This document tries to solve problems related to the barriers/obstacles between neighbouring communities.

**The regional development policy of the Czech Republic (Politika územního rozvoje ČR)** (2009)<sup>60</sup> was designed mainly for the national level but it still has some cross-border elements. The main topic of the document is the definition of the national level centres and axes which can be connected with other axes outside Czechia (e.g. the Axis OS3 from Prague through Liberec and farther away to the border with Germany and Poland).

**The Strategy of regional development of the Czech Republic 2014-2020 (Strategie regionálního rozvoje ČR 2014-2020)** (2013)<sup>61</sup> emphasizes the following terms: periphery, regional disparity, unemployment in the border regions, etc. Peripheral regions are characterised by poor traffic connections, depopulation, lower salaries and therefore the cooperation between municipalities, cities and cross-border cooperation in the Central European region should be supported as an important factor against peripherality.

**The Statement of the Government of Slovakia for the period 2012-2016 (Programové vyhlásenie vlády Slovenskej republiky)**<sup>62</sup> (2012)) points out that the Slovakian government aims at supporting regional and cross-border cooperation (i.e. different euroregional associations and implementation of the cross-border programmes financed by the EU) mainly with the V4 countries.

Another conceptual document titled **The National strategy of the regional development of Slovakia 2020 – 2030 (Národná stratégia regionálneho rozvoja Slovenskej republiky 2020 - 2030)** (2009)) the issue of border and cross-border cooperation is handled only at regional level. The authors analyse the strengths and opportunities of different cities (Trnava, Trenčín, Banská Bystrica, Nitra) or the development of business activities (Košice, Prešov).

**The regional development concept of Slovakia 2001 (Konceptia územného rozvoja Slovenska 2001 – záväzná časť v znení KURS)** (2011)<sup>63</sup> emphasises the development of the

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59 Strategy of regional development 2007-2013: <https://www.databaze-strategie.cz/cz/mmr/strategie/strategie-regionalniho-rozvoje-cr-2006?typ=struktura>

60 The regional development policy of the Czech Republic: <http://www.uur.cz/images/1-uzemni-planovani-a-stavebni-rad/politika-uzemniho-rozvoje-aktualizace-1-2015/APUR-konecny-text-05062015.pdf>

61 The Strategy of regional development of the Czech Republic 2014-2020: <https://www.mmr.cz/getmedia/08e2e8d8-4c18-4e15-a7e2-0fa481336016/SRR-2014-2020.pdf>

62 The Statement of the Government of Slovakia for the period 2012-2016: [https://www.vlada.gov.sk/data/files/2008\\_programove-vyhlasenie-vlady.pdf](https://www.vlada.gov.sk/data/files/2008_programove-vyhlasenie-vlady.pdf)

63 The regional development concept of Slovakia 2001: <https://www.mindop.sk/ministerstvo-1/vystavba-5/uzemne-planovanie/dokumenty/konceptia-uzemneho-rozvoja-slovenska-kurs2001>

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settlement structure at national and regional level. The term „cross-border cooperation“ is only mentioned in the chapters about tourism.

The Polish document titled **National development strategy 2020: active society, competitive economy, efficient state** (2012)<sup>64</sup> aims at emphasising the development of border regions at local/regional level. The border/peripheral regions are characterised by low traffic density and by cultural and social differences. The document mainly focuses on the situation in the important border regions with Russia, Belarus and the Ukraine.

**The National Strategy of Regional Development 2010–2020: Regions, Cities, Rural Areas (Krajowa Strategia Rozwoju Regionalnego 2010-2020: Regiony, Miasta, Obszary wiejskie** (2010))<sup>65</sup> defines the targets of regional development on different administrative levels in Poland including the cities and rural areas. The document declares that border regions have a development potential in many spheres, for example in infrastructure, education, health care and ICT infrastructure.

According to the strategy, only those projects which are necessary on both sides of the border should be supported. The topics connected to this area are environmental legislation, tourist industry, development of traffic connections and good relationships between cities and rural areas.

All the above materials are designed for national level but there are also documents which are designed for two or even three countries. Let us mention two examples.

The first document is **Trojzemí 2020. Perspectives of development of the border region Saxony – North of Czechia – Silesia (Trojzemí 2020. Perspektivy rozvoje příhraničního území Sasko – Severní Čechy – Dolní Slezsko** (Obrebalski 2011)). The analysis is very complex and describes many topics (regional economy, business, innovations, perspectives of the development, etc.) in all three national parts of the region.

Based on Eurostat data, the document deals with cross-border commuting; and it presents the example of the Nisa University which was established in 2000 based on the agreement of three universities, namely the Technical University of Liberec, the Hochschule Zittau/Görlitz and the Politechnika Wroclawska.

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64 National development strategy 2020: active society, competitive economy, efficient state:

[http://www.mir.gov.pl/english/regional\\_development/development\\_policy/nds\\_2020/strony/default.aspx](http://www.mir.gov.pl/english/regional_development/development_policy/nds_2020/strony/default.aspx)

65 National Strategy of Regional Development 2010–2020: Regions, Cities, Rural Areas:

[http://www.mir.gov.pl/english/regional\\_development/regional\\_policy/nsrd/doc\\_str/strony/doc.aspx](http://www.mir.gov.pl/english/regional_development/regional_policy/nsrd/doc_str/strony/doc.aspx)

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The other conceptual document is **the Study of the development of the Czech-Slovak borderland (Studie rozvoje česko-slovenského příhraničí (2008))**<sup>66</sup>. This publication describes 12 Slovak and 8 Czech districts where more than 2 million inhabitants are living.

The vision of the cross-border cooperation is detailed in priorities like sustainability, technical and transport infrastructure, coordination with Austria and Poland, etc. The most important tasks and the topics of mutual cooperation are identified for the areas between Hodonín and Skalica, Zlín and Púchov and Ostrava and Žilina.

## 5.2 Analysis of conceptual documents on regional level

In Liberec district situated along the common border with Poland and Germany, there are couple of documents mentioning the topic of cross-border cooperation.

On the one hand, the **Development programme of Liberec district 2007-2013 (Program rozvoje Libereckého kraje 2007-2013 (2007))**<sup>67</sup> highlights the significance of such cross-border activities as the improvement of transport connections in the region or between twin-cities.

The same priorities are confirmed also in the actual version of this Programme (2014-2020). The main priorities of the programme are good relations with the neighbouring countries and cities, border crossing, cross-border bus or train connections and the existence of Neisee-Nisa-Nysa Euroregion.

On the other hand the **Development strategy of Liberec district 2006-2020 (Strategie rozvoje Libereckého kraje 2006-2020 (2007))**<sup>68</sup> based on the results of an ESPON project sees Liberec as a city of regional importance together with Jelenia Góra, Görlitz and Bautzen in Saxony.

The document considers the absence of connection to the European corridors as a disadvantage of the region while the creation of the first Euroregion (the Neisse-Nisa-Nysa Euroregion) in Central and Eastern Europe as an advantage. The euroregion founded in 1991 is the good example of cooperation between Czechia, Germany and Poland.

As a result of the strategy, an expert association was created working on the territory of Liberec, Hradec Králové and Pardubice district in Czechia, Saxony in Germany and Silesia in Poland.

<sup>66</sup> Study of the development of the Czech-Slovak borderland:

<http://www.utok.cz/sites/default/files/data/USERS/u24/studie%20rozvoje%20prihranicni%20spoluprace.pdf>

<sup>67</sup> Development programme of Liberec district 2007-2013: [https://www.kraj-lbc.cz/public/orlk/prlk\\_cerven2007\\_146dfbf98b.pdf](https://www.kraj-lbc.cz/public/orlk/prlk_cerven2007_146dfbf98b.pdf)

<sup>68</sup> Development strategy of Liberec district 2006-2020 (Strategie rozvoje Libereckého kraje 2006-2020: [https://www.kraj-lbc.cz/public/orlk/plna\\_verze\\_645b76202e.pdf](https://www.kraj-lbc.cz/public/orlk/plna_verze_645b76202e.pdf)

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The **Regional plan Oberlausitz-Niederschlesien** (2010)<sup>69</sup> covers two districts in Saxony (Bautzen, Görlitz) and emphasizes the importance of the Czech-Polish-German border region. Further projects are the triangle cooperation between Bogatynia (PL), Hrádek n. N. (CZ) and Zittau (DE) and the touristic cooperation in the Krkonoše mountains or Lužické mountains.

**The Strategy of Hradec Králové district 2014-2020 (Strategie rozvoje Královehradeckého kraje 2014-2020** (2013))<sup>70</sup> does not mention cross-border cooperation, despite of that the district is located along the Czech-Polish border. The priorities of Hradec Králové district concentrate on the relationship with national and European level.

**The Development programme of Pardubice district 2012-2016 (Program rozvoje Pardubického kraje 2012-2016** (2011))<sup>71</sup> mentions the membership in the Euroregion Glacensis and the cooperation with Poland for example in the fields of transportation and tourism.

The SWOT analysis contains the Polish interest in cross-border projects (in different cultural or tourist tasks).

**The development programmes of development of Olomouc district, Zlínský district, Jihomoravský district and in Slovakia of Žilinský district and Trenčianský district** unfortunately do not mention borders or border regions.

In **the development strategy of Moravskoslezský district 2009-2020 (Strategie rozvoje Moravskoslezského kraje na léta 2009-2020**<sup>72</sup> (2008, renewed 2012)) mainly the project called European Grouping of Territorial Cooperation (EGTC) TRITIA is treated. The main objectives of the strategy target environment and air pollution in the area of Ostrava and Southern Poland.

The next documents are **the strategy of Silesia district 2020 (Strategia Rozwoju Województwa Śląskiego „Śląskie 2020”** (2010))<sup>73</sup> and **the strategy of Opole district 2020 (Strategia Rozwoju Województwa Opolskiego do r. 2020** (2012))<sup>74</sup>. The goals of the two Polish strategies are stability of inhabitants, improving of environmental conditions,

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69 Regional plan Oberlausitz-Niederschlesien: <https://www.rpv-oberlausitz-niederschlesien.de/regionalplanung/erste-gesamtbeschreibung-des-regionalplans-2010.html>

70 Strategy of Hradec Králové district 2014-2020 (Strategie rozvoje Královehradeckého kraje 2014-2020: <http://www.kr-kralovehradecky.cz/cz/rozvoj-kraje/rozvojove-dokumenty/rozvoj-2014-2020/strategie-rozvoje-kraje-2014--2020-70319/>

71 Development programme of Pardubice district 2012-2016: <https://www.pardubickykraj.cz/rozvoj-kraje/37774>

72 Development strategy of Moravskoslezský district 2009-2020: [https://www.msk.cz/cz/rozvoj\\_kraje/strategie-rozvoje-moravskoslezskeho-kraje-na-leta-2009-2020-52974/](https://www.msk.cz/cz/rozvoj_kraje/strategie-rozvoje-moravskoslezskeho-kraje-na-leta-2009-2020-52974/)

73 Strategy of Silesia district 2020: <https://www.slaskie.pl/content/strategia-rozwoju-wojewodztwa-slaskiego-slaskie-2020>

74 Strategy of Opole district 2020: <https://docplayer.pl/6288729-Strategia-rozwoju-wojewodztwa-opolskiego-do-2020-r.html>

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development of local business, the development of the road infrastructure, primarily in the mountain/border regions. The cooperation in the framework of TRITIA is accented as well.

More than 20 years of existence of the Neisse-Nisa-Nysa Euroregion provided the impulse for the creation of the following publication: **The Strategy of Neisse-Nisa-Nysa Euroregion 2014-2020 (Strategie Euroregionu Neisse-Nisa-Nysa 2014-2020 (2014))**<sup>75</sup>. The main priorities of the strategy are regional development and efficient cross-border cooperation. The main fields of development are economy, transportation, tourism, environment, culture, education, science and climate. In the document the strengths of the region are accented, exceptionally.

**The development strategy of Polish-Czech cooperation in the Pradęd/Pradziad Euroregion for the period 2014-2020 (Strategie rozwoje polsko-české spolupráce v Euroregionu Pradęd/Pradziad na léta 2014-2020 (2013))**<sup>76</sup> has the ambitions of improving and developing cross-border cooperation which has a long tradition and already helped realize many small mutual projects.

The Bílé/Biele Karpaty Euroregion (CZ/SK) prepared the **Strategy of the cooperation of Hornolidečský region and Púchovská dolina 2014-2020**<sup>77</sup>. The document covers two typically rural micro-regions with 22 municipalities including around 20 000 inhabitants.

The topic of cross-border cooperation is mentioned in the document in terms of the evaluation of transport connections, environmental issues and border crossings. Besides, the strategy contains a guide how to manage and present cross-border activities and which topics should be emphasized and developed. The Euroregion is introduced as a key participant for the sake of future development.

The last example is the document titled **European City Náchod-Kudowa Zdroj (Evropské město Náchod – Kudowa-Zdroj / Miasto Europejskie Kudowa-Zdroj – Náchod (2014))**<sup>78</sup>, which represents the local/regional level. In the Central European region this approach is very specific because these cities are not connected but they are situated around 10 km from each other. In the history Czechs, Germans and Poles lived in this area and the region was permeable. Nowadays, language is one of the biggest obstacles of cooperation. Another barrier is the small number of border crossings and the absence of motorway connection. Despite of the existing cross-border railway, there is no cross-border train connection and the tourists use their own car or the existing bus line.

<sup>75</sup> Strategy of Neisse-Nisa-Nysa Euroregion 2014-2020: <http://www.euroregion-nisa.cz/index.php?D=248>

<sup>76</sup> Development strategy of Polish-Czech cooperation in the Pradęd/Pradziad Euroregion for the period 2014-2020: [http://www.europraded.cz/docs/cinnost/Strategie\\_2014\\_2020.pdf](http://www.europraded.cz/docs/cinnost/Strategie_2014_2020.pdf)

<sup>77</sup> Strategy of the cooperation of Hornolidečský region and Púchovská dolina 2014-2020:

[http://www.address.cz/data/www.horniliddec.cz/files/Strategie\\_preshranicni\\_spoluprace\\_Hornolidecska\\_Puchovske\\_Doliny.pdf](http://www.address.cz/data/www.horniliddec.cz/files/Strategie_preshranicni_spoluprace_Hornolidecska_Puchovske_Doliny.pdf)

<sup>78</sup> European City Náchod-Kudowa Zdroj: <https://www.mestonachod.cz/mesto/dotacni-projekty/evropske-mesto/>

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The most important factors of the SWOT analysis included in the study are the followings.

<b>S</b> Good experience with cooperation	<b>W</b> Absence of legal information e.g. for economy and business
<b>O</b> Creation of the Nové Sudety (Novum) EGTC	<b>T</b> Decision making is time consuming at regional and national level mainly in the field of international transport connections.

### 5.3 Excerpts from the Certified methodology of Ministry of Regional Development

The Czech borderland is not an integrated area and is quite differentiated both from the inner point of view (endogenous potentials) and from the external point of view (e.g. the character of the region). Cross-border cooperation means a chance for these areas to become a strong subject/entity not only inside the country but at a higher (regional/national) level.

The first and very important factor are data. Based on data we can compare the border regions and create regional policy aiming to boost the region and its development. The border regions have mainly peripheral character but the government should try to develop these peripheral regions in order to make them more attractive and richer.

The certified methodology of cross-border regional development is an attempt to create united topics and targets which can help develop a unified approach to border regions and cross-border cooperation. The authors of the relevant publication (Jeřábek, Dokoupil, Havlíček, Halás 2015) described and analysed 50 conceptual documents from all levels (local/regional/European). The first goal of the study was to make a summary of recommendations, impulses or proposals which are applicable in the different regions.

The second goal was to make the cross-border cooperation more attractive by activating all stakeholders representing different hierarchical levels. Based on own experiences and consultations carried out with the civil servants of the Ministry of Regional Development of the Czech Republic, the topic of cross-border cooperation has been divided into several topics with possible solutions.

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Based on document analyses the authors concluded that there is no uniform approach to cross-border cooperation. For this reason they created some recommendations which (can) help enhancing cross-border regional development. Each proposal has to fit the individual situation. It means, the proposals have to be harmonised with territorial and institutional endowments.

Taking into account that the current project aims at international benchmark of the V4 countries, the institutional/hierarchical approach on the national level was chosen (which, in case of Czechia, is represented by the Ministry of Regional Development). Since in Czechia sectoral approach is dominating, the individual projects or intentions are not coordinated enough. This approach is in the future unsustainable.

In terms of functioning of the central authorities we suggest the following steps:

- 1)** To make the position of the Ministry of Regional Development stronger which should coordinate the activities at regional and local level.
- 2)** To include the development objectives of the border regions in regional plans and related concepts.
- 3)** To include the field of cross-border cooperation in the portfolio of the Ministry of Foreign Affairs and the embassies and consulates operated in the neighbouring countries as well.

On the level of Ministry of Regional Development in its cooperation with other authorities, we recommend:

- 1)** To create the mutual harmonization of all approaches and documents of regional policy and regional planning.
- 2)** To ensure the mutual information about intentions, development plans and other cross-border activities.
- 3)** To inform other authorities (also in the neighbouring countries) about social, economic and environmental developments in the border areas.
- 4)** To observe / analyse the impacts of the European transport corridors and trans-European networks.
- 5)** To adjust the legislation in order to make cross-border health care, etc. possible.
- 6)** To support the university/research organisations' cooperation.
- 7)** To intensify and to promote cross-border labour market and the recognition of qualifications and diplomas of the neighbouring countries.

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**Recommended content/structure of the conceptual documents from the cross-border regional development point of view:**

- 1) Environmental protection**
  1. Cross-border or border protected areas
  2. Cross-border rivers and sewage treatment
  3. Cross-border waste management
  
- 2) Inhabitants and settlements**
  1. Cross-border labour market
  2. Successive and functional territorial arrangement
  3. Definition of all border regions
  
- 3) Community/public facilities**
  1. Analysis of the possibilities of using the public facilities by the inhabitants of the neighbouring countries
  2. Creation of cross-border emergency management (health care, etc.)
  3. Support of the creation of international university (research) networks
  
- 4) Transportation and the connected region**
  1. Border crossings
  2. Connected network (roads, railways, cycle roads etc.)
  3. Cross-border bus and train connections
  4. Financial support of the cross-border intentions
  
- 5) Tourism**
  1. Web page with promotion/advertisement for the tourists coming from the neighbouring countries
  2. Bilingual exhibitions and excursions
  3. Discount cards for services or exhibitions in the border region

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**6) Cross-border regional identity**

1. Language obstacles, learning the language of the neighbouring country
2. Cross-border cultural, sport and educational activities for the public
3. Mutual promotional and advertising activities (brand, product, logo, visual identity)
4. Euroregional position in the cross-border cooperation
5. Cross-border partnerships between municipalities and their importance for cross-border cooperation

**7) Economic interconnection and investment policy**

1. "Information responsibility" on the projects and intentions with cross-border impacts
2. Projects (intentions, measures) with possible cross-border impact(s)
3. Production plants and clusters
4. Information centres facilitating business initiatives in the neighbouring country

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