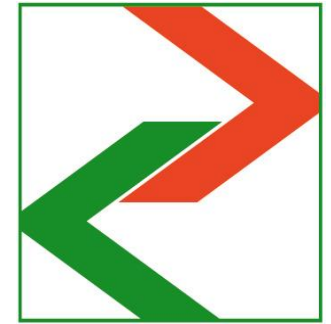


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# Workshop: The need for specific legal provisions to boost cross-border cooperation



Spatial planning, Mobility, Environment

by Jens Gabbe,  
Chairman of the AEBR Advisory Committee

# General remarks

- The diversity of Europe is regarded as an asset. It is an asset that should be cultivated and promoted. This diversity is reflected in the social and cultural life of all states and regions of Europe.
- Over the centuries, these various cultures and social systems have led to the formation of certain administrative structures and powers, fiscal and social legislation, and many other different areas of political activity.
- Citizens have grown up in these different social and cultural environments.
- They will not always wish to sacrifice aspects of their everyday lives for the cause of European harmonisation (loss of Europe's diversity).
- These different social and cultural environments (eg. administrative structures and systems) continue to exist for many decades and encounter each other at borders.

# General remarks

- No state in Europe will alter its tried and trusted structures, competencies and powers on account of the problems that arise in border regions.
- No state is able to draft its laws in such a way that they harmonise with all the neighbouring states on its borders.
- The consequences will be felt for a long time: economic, social and legal problems and obstructions to cross-border cooperation.
- Bilateral or trilateral cross-border cooperation at regional/local level will therefore remain a necessity over the long term in order to prevent cross-border conflicts and overcome psychological barriers.
- The sovereignty of the state ends at its borders. However, the differences and problems at these border continue to exist, and require sustainable solutions at regional/local level that should be supported nationally and on European level.

# General remarks

Cross-border cooperation is a policy framework task for the European Union which must be implemented at regional/local level in partnership with the national bodies in the field.



# Spatial planning

## Decentralised cross-border development strategies

- Spatial development planning is a competence of national states/lands/autonomous regions.
- So, spatial planning documents contain, at best, in the introductory part some remarks on the importance of cross-border cooperation.
- Sometimes also important transport links or major cities are considered in the maps.
- But, as there is no cross-border competence in spatial planning.
- In the important chapters focusing on sector-policies no reference is made to cross-border cooperation or cross-border development potentials.
- This is the reason why decentralised cross-border development concepts have been elaborated (Lake Constance, EUREGIO, Öresund, Upper Rhine, Salzburg-Berchtesgaden-Traunstein).
- In contrast to national plans, they are legally not binding. But they indicate for each sector policy the cross-border dependencies and development potentials.

**Conclusion:** Possibilities for legal solutions.

# Spatial planning

## A negative example - Cross-border Industrial Park

- There are numerous cross-border industrial parks in the EU.
- Unfortunately none of them is fully functional within the meaning of the word "cross-border".
- The designation of such a park in the spatial and development plans of neighboring states as well as joint infrastructure construction is no problem.
- Also joint technical administration is possible.
- However, up to now in no single case it has been possible to run and manage the parks with harmonized taxes, salaries and social security contributions.
- Many studies have been realized at the cost of several millions without any result.

### Reasons:

- Companies can not use the advantages of both countries (competition problems: “you can not think about biting into the sausage from two sides”)
- Special benefits in such a park create competitive disadvantages. An outflow of firms from the surrounding neighborhood brings no added value and benefits for the entire region.

**Conclusion:** No legal solution recommended.

# Mobility

- Increasing flows of workers across a border are a clear sign that labour markets are becoming more integrated (ie. evolution from a “half circle” towards a “full circle” labour market).
- As regards cross-border workers, the Commission’s Communication underlines:
  - It is not advisable to establish a specific status for commuters.
  - They should not be treated differently from other workers enjoying the right to free movement.
- Nevertheless, cross-border workers are in everyday life subject to the laws of both countries.
- The definition of a cross-border worker may vary from one field to another (eg. tax law, right of residence, welfare entitlements). Only a part of these fields is regulated by specific Community-level rules.
- Some of the rights and obligations of cross-border workers depend on the country where they work (eg. employment laws, tax laws in some cases), others on the country where they live (eg. tax laws, real estate taxes, residence formalities etc.).

# Mobility

## Factors influencing on a cross-border mobility of workers

- There is a great variety of mobility obstacles which cross-border workers face on a daily basis along all internal borders of the EU 28:
    - Different language settings,
    - Lack of information,
    - Different types of regulatory prescriptions,
    - Adequate transport infrastructures,
    - Different mentalities or cultures.
- (EU Employment Study 2009)
- Also the AEBR-study (2012) gathered further evidence on the variety of weaknesses and obstacles that still hamper the mobility of workers on different types of cross-border labour markets. Moreover, the study underlines that *the (...) majority of obstacles limiting mobility are obviously registered in those regions that have the highest numbers of cross-border employees.*



Mobility level	Type of border	Main weaknesses observed
High or medium-high level of cross-border mobility on the labour market	“Old” EU 15 internal borders, incl. Switzerland and Norway (North-West Europe and Scandinavia)	<ul style="list-style-type: none"> <li>- Frequent lack of command of foreign languages</li> <li>- Local transport structures not always optimally constructed</li> <li>- Insufficient usage of opportunities created by cross-border mobility by employers, and employees</li> <li>- Insufficient agreement of public administration bodies with regard to overcoming obstacles limiting mobility</li> <li>- Fluctuation of currency exchange rates (e.g. in the case of CH, UK-Northern Ireland)</li> </ul>
Medium or medium-low level of cross-border mobility on the labour market	“Old” external borders between EU 15 and Member States of the 2004 and 2007 enlargements (e.g. IT/SI, AT/SK, DE/CZ)	<ul style="list-style-type: none"> <li>- In some cases formal EURES-T partnerships were dissolved and informal cooperation is not sufficient</li> <li>- Often insufficient command of the language of the neighbouring country</li> <li>- Inflexibility of educational systems</li> <li>- Often lack of optimum network of local cross-border transport</li> <li>- Lack of adequate knowledge about legal regulations concerning the labour market in the neighbouring country</li> <li>- In some cases, lack of intercultural competences</li> <li>- Insufficient support for the development of the integrated labour market at the political level</li> </ul>
Rather low level of cross-border mobility on the labour market	“New” internal borders (e.g. PL/LT, PL/SK), and some “old” borders in South-West Europe (ES/PT)	<p>Structural problems on the labour market</p> <ul style="list-style-type: none"> <li>- Youth unemployment</li> <li>- Insufficient innovative work placements</li> <li>- Often lack of an optimum network of local cross-border transport</li> <li>- Insufficiently developed cross-border cooperation in the sphere of the labour market</li> <li>- Relatively few counselling opportunities for mobile employees</li> <li>- Not attractive salaries in comparison with other European countries</li> </ul>
Rather low level of cross-border mobility on the labour market	External borders EU- (e.g. FI/RU)	<ul style="list-style-type: none"> <li>- Structural problems on the labour market</li> <li>- Formal obstacles for mobility due to border controls (lack of special regulations for the inhabitants of border regions)</li> <li>- Often lack of an optimum network of local cross-border transport</li> <li>- Relatively few counselling offers for mobile employees or hindered access to information</li> </ul>

# Mobility

## Factors influencing on a cross-border mobility of workers

Many of the obstacles can only be tackled through national-level policies and in particular through more effective cross-border cooperation and coordination (INTERACT-Study 2015).

### Needs for the future through cross-border cooperation:

- Establish favourable frame conditions across the EU and within the individual Member States which help to eliminate obstacles that still hinder European labour mobility and to support a full inclusion of mobile workers into the society of their respective host countries,
- Actions at regional/local level play an important role,
- Support pragmatic and area-specific solutions,
- Initiate more strategic initiatives which aim at definitely eliminating “systems differences” that are the causes of many mobility obstacles (legal and political solutions),
- Support cross-border vocational training and qualifications offers and cross-border educational offers at all levels.
- Establish a certain “governance framework” which helps to further develop and integrate the cross-border labour market like the Greater Region.

Conclusion: Several possibilities for regional specific legal solutions.

# Environment

- Waste is considered in the EU as a good, which may be traded.
- But there is also the political interest, not to release regional and local authorities from the responsibility for their own waste.
- It would be very convenient, not to be forced to decide upon this and to dump the waste in one of the neighboring states.
- In the Netherlands and the German states of North Rhine-Westphalia and Lower Saxony the same political consensus applies:
  - Waste avoidance before recycling and combustion.
- The political responsibility for the own waste is maintained.
- Transport over the border has to be avoided.

# Environment

- Nevertheless, it has been possible to realize several cross-border projects with the approval of all three governments.
- Reason: appropriate degree of “give and take” across the border, no one-way street for the waste.
- But the feasibility of these projects depended very much on the individual persons in the ministries who interpreted the existing laws in a positive way.
- For each personnel change this can look quite differently.

**Conclusion:** This could be a typical example for a legal regulation.

However, the questions arise:

- Has the EGTC regulation to be supplemented?
- Is the existing regulation sufficient for the foundation of an EGTC for a project?