



Managed by the Association of European Border Regions by an Action Grant (CCI2017CE160AT082) agreed with the Directorate General of Regional and Urban Policy, European Commission. Financed by the European Union.

b-solutions

FINAL REPORT BY THE EXPERT

Advice Case: Current social and health insurance regulations as problem for borderland inhabitants working on both sides of the border at the same time

Advised Entity: Borderland Association "Nasza Suwalszczyzna" (NGO), PL

Expert: Marcin Krzymuski

Table of Content:

I. Description of the Situation in the Border Region	3
II. Description of the Obstacle	4
III. Indication of the Legal/Administrative Dispositions causing the Obstacle	5
1. EU Law	5
2. National law system level.....	6
3. International agreement framework between Lithuania and Poland	6
IV. Description of a Possible Solution.....	Fehler! Textmarke nicht definiert.
1. ZUS and SoDra training courses for employees & employers.....	7
a. Measure content	7
b. Actors to be included.....	8
c. Example: "GrenzInfoPunkte GrensInfo-Punten"	8
2. Direct Polish-Lithuanian agreement on cross-border cases.....	8
a. Measure description and its content.....	8
b. Actors to be included.....	9
c. Example: "Grenzgängerabkommen"	10
3. Social security system for cross-border workers	10
a. Measure.....	10
b. Actors to be involved	10
c. Example: "Joint Sickness Insurance Scheme" of the European Union (JSIS).....	11
V. Pre-Assessment of whether the case could be solved with the European Cross-Border Mechanism (ECBM)	11



Managed by the Association of European Border Regions by an Action Grant (CCI2017CE160AT082) agreed with the Directorate General of Regional and Urban Policy, European Commission. Financed by the European Union.

VI. Other Relevant Aspects to this Case	12
1. Cross-border functional area.....	12
2. Link to others measures	13
VII. References and Appendix/Appendices if any	14
VIII. Appendix 1.	16

Managed by the Association of European Border Regions by an Action Grant (CCI2017CE160AT082) agreed with the Directorate General of Regional and Urban Policy, European Commission. Financed by the European Union.

I. Description of the Situation in the Border Region

As of May 1, 2004 there are no legal barriers for the free movement of Polish and Lithuanian citizens in border crossing and mobility. Also there are no barriers as for taking up jobs in both countries, however, some positions in administration are restricted to citizens only.

The border region Lithuania-Poland has a large problem with qualified employees. Professionals knowing Polish and Lithuanian language are very requested by employers. In the border region is quite common that such people have possibility to work as employee in Poland and Lithuania at the same time; it means that 2-3 days they work in one country and rest of working week in another. Because, they live and work in border region the mobility is not big challenge, because distances are not huge.



Source: <http://lietuva-polska.eu/en/interreg.html>

Social security systems are not harmonised and vary substantially across the Member States. If person has employment contract, employer is obligated to pay insurance contribution in name of employee to insurer of country where it is employed, and employment is always more important in this case than individual entrepreneurship. But if person has employment contract in two different countries, it starts to be problem, because each of employers pays insurance contributions to different insurers in different countries, and this is violation of current regulations.

Now people open individual entrepreneurship in one country or they work only in one country, what led to lower incomes and less productivity of whole region.

Actually, there is no data available on the number of cross-border commuters. The number is rather low due to the lack of information and structural weaknesses on both sides of the border.¹ The last report on employee mobility in the Polish-Lithuanian border region comes from 2012.² It was prepared in the context of a large economic crisis in Lithuania and before the increase of employment. In 2009, the number of commuters was estimated at 200 in each direction. Also, CBOS surveys do not include Lithuania as a target for Polish employees, which means that it is not a significant percentage of employees.³

Low level of the cross-border Polish- Lithuanian mobility particularly relates to:

¹ M. Guillermo Ramírez, A. Winkler in: Association of European Border Regions (AEBR) (ed.), Information services for cross-border workers in European border regions, 2012, p. 24.

² Maritime Institute in Gdansk (ed.), Case study: Cross-border labour mobility between Poland-Lithuania, 2012 (<http://www.sb-professionals-project.eu/news/Case-Study-Poland-Lithuania.pdf>).

³ CBOS, Komunikat z badań Nr 146/2018. Wjazdy do pracy za granicę.



Managed by the Association of European Border Regions by an Action Grant (CCI2017CE160AT082) agreed with the Directorate General of Regional and Urban Policy, European Commission. Financed by the European Union.

- phenomenon of the synchronic labour markets in the border region, which means that what is missing in terms of work force and its qualifications in one region, is usually missing and demanded in the other region,
- similar economic structure of the border regions as well as relatively low differences in incomes earned from taking up jobs on the other side of border impede mutual exchange of the labour force;
- insufficient level of socio-economic development of the bordering regions in the north-eastern neighbouring areas in terms of entrepreneurship, small-and medium size companies, export potentials, development of the network cooperation among local entrepreneurs and authorities and
- lack of information with regards to cross-border activities and job offers, also relevant to social insurance or medical care also taxation systems; existing Polish and Lithuanian labour exchange offices have scarce resources and their activities are limited to matching jobs mostly for the lower skilled workers, on the other hand cross-border co-operation among regional labour offices is very limited and hampered by the lack of co-operation system and language barriers.⁴

The latter obstacle is the main subject of this report.

II. Description of the Obstacle

The problems encountered by cross-border workers are further aggravated by a lack of, or inconsistent, information. The competent authorities do not normally have knowledge of the social security system in the other Member State.

Discussions at the border also pointed to practical problems, in particular concerning the rules for calculating premiums under a different system and in the case of different currencies, the creation of an account for the payment of insurance premiums.

The main obstacle is certainly the functioning of two legal systems in neighbouring Member states. The both legal systems (of Poland and Lithuania) are completely independent and they differ quite a lot from each other.⁵ Cross-border workers therefore move in a complex legal space, comprising two social security systems, each of which can be applied, in an appropriate constellation. There is no single system for cross-border workers only.

It appears that EU intervention would be most appropriate in such a situation. However, the EU has no legislative competence in this area. Union shall only “support and complement” the activities of the Member States in the fields social security and social protection of workers (cf. Article 6, Article 153 (1) c) of Treaty on the Functioning of the European Union (TFEU)). On this basis, the EU has adopted the coordination rules intended to prevent conflicts in cross-border cases: Regulation 883/2004⁶ and

⁴ Maritime Institute in Gdansk (ed.), p. 23-24.

⁵ European Commission, Your social security rights in Lithuania, European Union, 2013; European Commission, Your social security rights in Poland, European Union, 2013.

⁶ Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ L 166, 30.4.2004, p. 1).



Managed by the Association of European Border Regions by an Action Grant (CCI2017CE160AT082) agreed with the Directorate General of Regional and Urban Policy, European Commission. Financed by the European Union.

Regulation 987/2009⁷. However, EU regulations coordinating national social security systems are only intended to implement the objectives of TFEU. However, in the field of social security, measures may be taken where necessary to ensure the free movement of workers (cf. Art. 47 TFEU).⁸

Further obstacles to the flexibility of social security systems result from the following principles of the coordination regulations.

The first rule is that the insured person does not have the right to choose his or her own social security system. EU coordination regulations are based on the assumption that a person is to belong to a single compulsory insurance scheme for a given period of time, so that only one country's legislation (applicable legislation) should apply in a given situation.⁹

Furthermore, only the legislation of one State may be applicable (Article 11 (1) Regulation 883/2004). As a rule, this is the law of the Member State of residence if person pursues a substantial part of his activity in that Member State (Article 13 (1) (a) Regulation 883/2004).

In the border region, however, we have to deal with many complicated constellations for which it is difficult to determine the responsible social security system, f.e.:

- 1) performing paid employment on both sides of the border at the same time (each with a similar dimension; none to a marginal extent),
- 2) pursuing a self-employed activity in both countries – in a similar dimension (none of the activities is marginal);
- 3) pursuing both an employed and a self-employed activity.

In these cases there is a special demand for advice and many unanswered questions. Although special rules are included in the coordination rules, they are inflexible and often do not take into account the particularities of each case.

It is also necessary to reconcile the social security aspects with other issues (e.g. with regard to the applicable tax law, health services, etc.). Otherwise, the legal situation arises which is unpredictable and thus unfavourable for the cross-border employee and makes cross-border mobility unattractive.

III. Indication of the Legal/Administrative dispositions causing the Obstacle

The legal obstacles can be identified at the level of Union and national law.

1. EU Law

There is no specific EU legislation that would establish a special social security system exclusively for cross-border workers. EU law ensure only that all cross-border workers are entitled to equal

⁷ Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems (OJ L 284, 30.10.2009, p. 1).

⁸ A. Szybkie, p. 7.

⁹ D. Dzienisiuk, p. 11.



Managed by the Association of European Border Regions by an Action Grant (CCI2017CE160AT082) agreed with the Directorate General of Regional and Urban Policy, European Commission. Financed by the European Union.

employment rights, working conditions, employment-related benefits, and the same social protection and advantages as national workers.¹⁰

In cases of simultaneous multiple employment and/or self-employment in several Member States, the EU coordination rules provide certain links for the determination of the competent legal system which do not always offer the best solution for the person concerned. This has a negative impact on worker mobility.

2. National Law System Level

The issues of social security, tax systems and labour law remain also a national competence. Each Member State shall set up its own system based on national legislation. The EU Member States therefore have the right in the field of social security to determine the circle of persons covered by social security, as well as the conditions that must be met in order for the conditions for insurance benefits to be fulfilled, the type and amount of social security benefits and the period during which these benefits are paid.¹¹ This translates into (contributory) obligations and entitlements (e.g. medical services).

Polish and Lithuanian social insurance systems operates on different principles and is an element of the sovereign legal system of both countries. This means that cross-border workers on the Polish-Lithuanian border are still affected by national rules. This also has an impact on the mobility of employees.

3. International Agreement Framework between Lithuania and Poland

Between Poland and Lithuania Agreement between The Minister of labour and social policy of the Republic of Poland and The Minister of social policy and labour of the Republic of Lithuania was signed on 13.3.2008 (in force since 13.3.2008). The Ministers declared to develop the cooperation of both states in the field of labour and social policy. However, the examples of successful implementation of the provisions of this agreement are not known. This indicates that the agreement is not yet being implemented in practical terms.

Furthermore Agreement between The Minister of health of the Republic of Poland and the Minister of health of the Republic of Lithuania on cooperation in the field of health care (from 23.11.2018, not entered into force). In Article 2 (7) of this Agreement parties declare to develop their cooperation in the area of cross-border health care by undertaking of following activities: the exchange of expert delegations aimed at exchanging experience and carrying of short-term programs of cooperation, participation in professional meetings organized by the Parties and organizing joint event such a study visits, conferences and seminars and other forms of cooperation agreed by the Parties. As the agreement has not yet entered into force, it remains to be seen how the parties to the agreement will implement the provisions in favour of cross-border cooperation.

¹⁰ M. Wihlborg, P. Jeffrey, p. 8.

¹¹ A. Szybkie, p. 6.



Managed by the Association of European Border Regions by an Action Grant (CCI2017CE160AT082) agreed with the Directorate General of Regional and Urban Policy, European Commission. Financed by the European Union.

Consequently, the bilateral agreements are not the appropriate measure for overcoming existing legal obstacles either.

IV. Description of a Possible Solution

In the present advice case, there are several possible solutions which will be presented in the order from the simplest to the implementation to those which perhaps correspond most closely to the “spirit of integration” of the border regions.

1. ZUS and SoDra training courses for employees & employers

Discussions at the border also pointed to practical problems, in particular concerning the rules for calculating premiums under a different system and in the case of different currencies, the creation of an account for the payment of insurance premiums. In addition, there were issues of applicable tax law, which is subject to different rules than social security law. It was also important for cross-border employees, how to benefit from medical services in both countries.¹²

a. Measure content

This action consists in the organisation of training activities by the competent institutions for stakeholders on cross-border employment issues. They aim to help to decrease the doubts of proper administrative units concerning the manner of interpretation and application of specific regulations.

In this case, the competent institutions should provide information on

- (a) the rules for taking up employment in another country (conditions of employment, recognition of diplomas, etc.).
- (a) the conditions of residence in another country (renting of housing, acquisition of real estate, housing allowances and benefits)
- (b) the social security consequences in the event of a discrepancy between the place of residence and the place of work or in the case of multiple places of residence,
- (c) on terms and conditions of social security contributions in another country (for employers).

The training courses should be extended by further aspects (e.g. tax law, job search, minimum salary, old-age pension).

Regular training sessions and courses in relevant legal regulations should be offered for employees and national security service institutions that rarely deal with issues related to the situation of cross-border employees as well. The courses could be a task for such cooperation formats like “regional round tables”, task forces or associations (f.e. Euroregion). In order to increase visibility to the citizens training should become a permanent feature of regional cooperation.

The creation of a common information point on the Polish and Lithuanian sides is also worth considering, e.g. also as an element of the business incubator.¹³

¹² Interviews with employees at the Poland-Lithuania border, September 2019.

¹³ See Chapter VI.



Managed by the Association of European Border Regions by an Action Grant (CCI2017CE160AT082) agreed with the Directorate General of Regional and Urban Policy, European Commission. Financed by the European Union.

b. Actors to be included

As actors to be included are national insurance institutions (ZUS and SoDra) and representation of employees and employers in the border region.

c. Example: “GrenzInfoPunkte | GrensInfo-Punten”

The GrenzInfoPunkte-GrensInfo-Punten¹⁴ are a good example of information measures for cross-border commuters.. The GrenzInfoPunkt-GrensInfo-Punten in the German-Dutch-Belgian border regions provide information on working in the neighbouring country as an employee or self-employed person, living in the neighbouring country and studying in the neighbouring country.

They advise entrepreneurs when they want to hire personnel from the neighbouring country; cross-border workers when they become unemployed or employees who retire and have worked in the neighbouring country.

2. Direct Polish-Lithuanian agreement on cross-border cases

Lithuania and Poland are linked by numerous agreements in the areas of social policy, health, avoidance of double taxation and cross-border cooperation. The most important are the already mentioned agreement on cooperation of both states in the fields of labour and social policy (2008) and agreement on cooperation in the field of health care (2018). The next agreement is the 1994 agreement for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income and on capital.

Article 16 (1) of EU Regulation 883/2004

Two or more Member States, the competent authorities of these Member States or the bodies designated by these authorities may by common agreement provide for exceptions to Articles 11 to 15 in the interest of certain persons or categories of persons.

On the basis of Article 16(1) of Regulation No 883/2004, Member States - thus also Lithuania and Poland - may sign an agreement laying down specific coordination rules. However, they can only do so at the request of the insured person and the agreement can only be concluded if it is in the interest of the insured person(s).

These agreements and the EU Regulation form an important basis for cross-border employment and open up the possibility of additional measures directly affecting cross-border commuters.

a. Measure description and its content

At this point it is proposed to conclude an international agreement concerning only cross-border workers on the Polish-Lithuanian border. Bilateral agreements could create special regulations

¹⁴ <https://grenzinfo.eu>



Managed by the Association of European Border Regions by an Action Grant (CCI2017CE160AT082) agreed with the Directorate General of Regional and Urban Policy, European Commission. Financed by the European Union.

applicable only to the situation of cross-border commuters without the need to unify standard legal solutions in the respective countries.¹⁵

In such an agreement current barriers to the situation can be removed by providing for simplification for employers and employees by providing f.e. the right to choose the appropriate system or for administrative simplification, e.g. by managing the contributions paid in one Member State to the insurance institution of the competent State and then transferring them to that institution.

On the basis of Article 16(1) Regulation 883/2004 the parties of bilateral agreement could establish a specific rules in the interest of certain categories of persons. On this basis, Poland and Lithuania may agree that persons residing in one country and working in another shall be fully subject to one social security system of their choice, as well as to health and tax systems.

The agreement should establish the conditions that persons must meet in order to be considered as cross-border workers. In addition, it will be necessary to establish who should be subject to the choice of applicable law, in what form and what the consequences of losing the status of cross-border worker will be.

If a person chooses to opt for one of the social insurance systems, he or she will be subject to the law of his or her choice in full as regards social security regulations. This will establish a uniform insurance and tax status for a cross-border worker.

The use of medical services in a country other than the country of insurance will be possible on the basis of an EHC issued by the institution of the competent State under the existing rules laid down in Article 17 et seq. of Regulation No 883/2004. Since there are no significant differences in the costs of medical treatments at the Polish-Lithuanian border, there is no risk of excessive costs for health insurance. A uniform insurance status also guarantees equal treatment for the employee in the country where the scheme would be chosen. Such a solution can also prevent undesirable effects, such as unequal treatment due to lack of residence in the competent country, f.e. unequal treatment (discrimination affecting frontier workers) particularly as regards granting specific tax deductions or concessions. A uniform insurance status will also allow the cross-border worker to avoid, for example, being unable to benefit from unemployment benefits because he resides in another country, even if he has previously paid for the relevant insurance (like Lithuanian: *nedarbo draudimo išmoka*).

b. Actors to be included

This solution requires the inclusion of the following actors:

- (a) Member States,
- (b) institutions responsible for social security,
- (c) representation of employees and employers in the border region,
- (d) cross-border entities like Euroregion (associations, etc.).

¹⁵ M. Guillermo Ramírez, A. Winkler, p. 19.



Managed by the Association of European Border Regions by an Action Grant (CCI2017CE160AT082) agreed with the Directorate General of Regional and Urban Policy, European Commission. Financed by the European Union.

c. Example: “Grenzgängerabkommen”

An example of similar solutions is the “Grenzgängerabkommen” between Switzerland and Italy from 2015 or an exception to the 183-day regulation under the double taxation agreements between France and Germany¹⁶. Although these agreements covers only tax issues, it is conceivable that a similar agreement between Poland and Lithuania could cover all issues that are important for cross-border workers.

3. Social security system for cross-border workers

This solution is the most far-reaching as it consists in the creation of an independent and separate social security system for cross-border workers only, separate from the legal system of the Member States.

a. Measure

The action proposed here consists in the creation of substantive standards which would replace the relevant provisions of the social security legislation of Poland and Lithuania. A third social security system on the Polish-Lithuanian border would be created, which would cover only workers having the status of a cross-border worker. It would be a system of insurance independent of 883/2004, which are coordination provisions.

This system would be comprehensive in the sense that it would cover all areas of social security. It would be up to the Member States to agree on the rules for the functioning of the system and to notify their accession to it. In addition, Member States would have to indicate the factors for the calculation of contributions and the rules on the use of benefits under the scheme. If the scheme is sufficiently attractive compared to national schemes, it could serve as an instrument to encourage and promote cross-border employment.

It would also be necessary to create appropriate common entities in the form of cross-border insurance institutions (f.e. EGTC) that would manage the financial resources contributed to the scheme.

b. Actors to be involved

This solution requires the inclusion of the following actors:

- (a) Member States,
- (b) institutions responsible for social security (PL: ZUS, NFZ; LT: SoDra),
- (c) representation of employees and employers in the border region.

¹⁶ “Verständigungsvereinbarung zur 183-Tage-Regelung (Artikel 13 Abs. 4) und zur Anwendung der Grenzgängerregelung (Artikel 13 Abs. 5)



Managed by the Association of European Border Regions by an Action Grant (CCI2017CE160AT082) agreed with the Directorate General of Regional and Urban Policy, European Commission. Financed by the European Union.

c. Example: “Joint Sickness Insurance Scheme” of the European Union (JSIS)

Officials and legal representatives of the European Union (and their families under certain conditions) are entitled to the European Union Joint Sickness Insurance Scheme (JSIS). This system is based both on Article 72 of the EU Staff Regulations (Council Regulation) and on the Protocol on the Privileges and Immunities of the European Communities (PPI). It is completely independent of the national social security systems of the Member States. It is not included in Regulation (EC) No 883/2004 as well.

The JSIS covers medical costs at a reimbursement rate of 80-85% (subject to certain ceilings). Active employees who are members of the JSIS are also insured against the risks of accidents and occupational diseases.¹⁷

The JSIS is financed by the contributions of the agent and the employer.

V. Pre-Assessment of whether the case could be solved with the European Cross-Border Mechanism (ECBM)

First of all, it should be noted that under the proposed ECBM Regulation¹⁸, the mechanism is applied to 'legal obstacle with regard to the planning, development, staffing, financing or functioning of a joint project' (Article 8(1) Proposal for ECBM Regulation).

We would therefore first have to deal with a 'joint project' in the sense of the ECBM. According to Article 3(2) of Proposal for ECBM, this term means "any item of infrastructure with an impact in a given cross-border region or any service of general economic interest provided in a given cross-border region". The proposals for solutions described above do not constitute a “joint project” in the meaning of ECBM.

Service of general economic interest (SGEI) are economic activities which deliver outcomes in the overall public good that would not be supplied (or would be supplied under different conditions in terms of quality, safety, affordability, equal treatment or universal access) by the market without public intervention.¹⁹ However, “social security schemes covering the main risks of life and a range of other essential services provided directly to the person that play a preventive and socially cohesive/inclusive role”, are so-called Social services of general interest (SSGI), which are a distinct category of services of general economic interest.²⁰

¹⁷ European Commission, EMPL/-2238/13 – EN, AC 566/13, Joint Sickness Insurance Scheme; PMO – 19.11.2013 (https://ec.europa.eu/pmo/doc_em/doc_em_en.pdf).

¹⁸ 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)).

¹⁹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions “A Quality Framework for Services of General Interest in Europe” (COM/2011/0900 final), p.3.

²⁰ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions “A Quality Framework for Services of General Interest in Europe” (COM/2011/0900 final), p.3-4.



Managed by the Association of European Border Regions by an Action Grant (CCI2017CE160AT082) agreed with the Directorate General of Regional and Urban Policy, European Commission. Financed by the European Union.

The problem is therefore whether the ECBM could be applied to the solutions proposed above in paragraph IV.2.[Direct Polish-Lithuanian agreement on cross-border cases] and IV.3. [Social security system for cross-border workers]. It appears that, on the background of the definition of SGEI, the ECBM does not apply for two above mentioned approaches.

While the common training referred to in IV.1. constitutes a common project, it should not be hampered by specific legal or administrative barriers within the meaning of Article 8 (1) of Proposal.

VI. Other Relevant Aspects to this Case

The obstacles described in this opinion concern one aspect of a larger project, the creation of a Polish-Lithuanian cross-border functional area.

1. Cross-border functional area

Its origins are described in the 2018 Joint Declaration of Mayors of Lithuanian and Polish cities and municipalities (Appendix 1). The objective of the functional area is to raise the standard of living of the inhabitants of the Polish-Lithuanian border area. Apart from issues related to employee mobility, which is negatively affected by problems related to the lack of flexibility of coordination rules, the improvement of the quality of life is also to be influenced by activities aimed at the development, creation and restoration of infrastructure, improvement of accessibility and quality of public services, cooperation of local governments in the area of municipal economy. The cross-border business incubator discussed here represents the measure for the development of new jobs, which can contribute by the authors of the declaration also to the improvement of the quality of life. The creation of a cross-border functional area should be a joint decision of the governments and bodies of the European Union.

In this case, it seems most appropriate to refer to mechanisms allowing for the integrated development of selected areas, and in particular to instruments such as Integrated Territorial Investments. Integrated Territorial Investment (ITI) is a tool for implementing integrated territorial strategies for regions with specific geographical characteristics.

The integrative approach consists of pooling resources from the ESF, ERDF, EAFRD, EMFF and, where appropriate, the Cohesion Fund (multifund approach, cf. Art. 36 (1) Regulation 1303/2013²¹). This allows measures financed by several funds to be combined if they are assigned to more than one priority axis of one or more operational programmes.

In particular, the ITI allows the cross-sectoral implementation of operational programmes by combining financial resources from several priority axes of one or more operational programmes. The

²¹ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, p. 320).



Managed by the Association of European Border Regions by an Action Grant (CCI2017CE160AT082) agreed with the Directorate General of Regional and Urban Policy, European Commission. Financed by the European Union.

above mentioned activities can fit well into the Interreg Programme Poland - Lithuania. They should also be included in the negotiations of the new cooperation programme.

However, the nature of ITI does not prevent the application of the ITI in a cross-border context. The use of ITI in a cross-border context is also welcomed by the European Parliament.²² The ITI can also be used to implement measures in connection with European Territorial Cooperation. For example, ITI can be used in a cross-cutting context to implement an integrated urban development strategy in certain natural areas. Recently the ITI approach is used by two EGTCs, the EGTC Ister-Granum²³ ("Ister-Granum Entrepreneur and Logistics Zone ITI") and the EGTC Spoločný región²⁴. Other EGTCs see the ITI as a conceivable approach for the future development of their cross-border cooperation.²⁵

When deciding on the implementation of the cross-border functional area through the ITI approach, the partners at the national and local level should agree on: area with specific geographical characteristics, an integrated, cross-sectoral and territorial development strategy, a package of measures for implementation and governance rules for the administration of the ITI.

A cross-border ITI should either establish a legal entity established under the laws of one of the participating countries, if this is done by public authorities, or be an authority from at least two participating countries or an EGTC (Art. 11 Regulation 1299/2013²⁶).



Border crossing at Ogrodniki (PL-LT).

Broad way for cross-border cooperation of municipalities on the Polish-Lithuanian border?

© Marcin Krzymuski

2. Link to others measures

The establishment of an EGTC can also be advantageous for the implementation of other measures.

²² No 35 of European Parliament resolution of 10 May 2016 on new territorial development tools in cohesion policy 2014-2020: Integrated Territorial Investment (ITI) and Community-Led Local Development (CLLD) (2015/2224(INI)).

²³ <https://istergranum.eu>

²⁴ <http://www.spolocnyregion.sk/>

²⁵ Zillmer et al., EGTC Monitoring Report 2016, 2017, p. 126.

²⁶ Regulation (EU) No 1299/2013 of the European Parliament and of the Council of 17 December 2013 on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal (OJ L 347, 20.12.2013, p. 259).



Managed by the Association of European Border Regions by an Action Grant (CCI2017CE160AT082) agreed with the Directorate General of Regional and Urban Policy, European Commission. Financed by the European Union.

Almost all the in the Declaration of 2018 mentioned areas of the cross-border functional area are public services for which the municipalities are responsible. School, social and health services, culture and sport, road construction, local and regional public transportation, supply and disposal (with energy or water) require the construction and maintenance of appropriate infrastructure facilities. According to Article 7(4)(2) of the EGTC Regulation²⁷, the EGTC may determine the conditions for the use of infrastructure managed by the EGTC. The establishment of a common structure, such as EGTCs, could greatly facilitate the joint performance of these tasks. This could also be used to link other projects, in particular the cross-border business incubator described in another report.²⁸

The effective implementation of individual projects foreseen in the ITI strategy will be facilitated by the introduction of ECBM. In this context, an EGTC can play the role of an initiator (Art. 3 (5) of Proposal for ECBM Regulation), who identifies the legal obstacle and triggers the ECBM by submitting an initiative document (Art. 8 of Proposal for ECBM Regulation).

VII. References and Appendix/Appendices if any

Association of European Border Regions (AEBR) (ed.), Information services for cross-border workers in European border regions, 2012.

CBOS, Komunikat z badań Nr 146/2018. Wyjazdy do pracy za granicę (https://cbos.pl/SPISKOM.POL/2018/K_146_18.PDF)

Dzienisiuk D., Składki na ubezpieczenia społeczne za pracowników zatrudnionych w Polsce i wykonujących pracę na podstawie umów cywilnoprawnych w innym państwie członkowskim UE, Prawo Budżetowe Państwa i Samorządu 1 (5)/2017, p. 9-25. DOI: <http://dx.doi.org/10.12775/PBPS.2017.001>

European Commission, Your social security rights in Lithuania, European Union, 2013.

Maritime Institute in Gdansk (ed.), Case study: Cross-border labour mobility between Poland-Lithuania, 2012.

Szybkie A., Materialno-prawny wpływ koordynacji systemów zabezpieczenia społecznego w UE na krajowe instytucje prawne zabezpieczenia społecznego, Ubezpieczenia Społeczne. Teoria i praktyka, 2017, No 4 (135), p. 3-22.

Wihlborg M., Jeffrey P., Easing legal and administrative obstacles in EU border regions. Case Study No. 2. Labour mobility. Obstacles for cross-border commuters, 2017.

²⁷ Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC) (OJ L 210, 31.7.2006, p. 19) amended by Regulation (EU) No 1302/2013 of the European Parliament and of the Council of 17 December 2013 (OJ L 347, 20.12.2013, p. 303), Corrigendum, OJ L 330, 3.12.2016, p. 5 (1302/2013).

²⁸ M. Krzymuski, FINAL REPORT BY THE EXPERT: Juridical obstacles in establishment and financing of trans-national business incubator, b-solution 2019.



Managed by the Association of European Border Regions by an Action Grant (CCI2017CE160AT082) agreed with the Directorate General of Regional and Urban Policy, European Commission. Financed by the European Union.

Zillmer S. et al., EGTC monitoring report 2016 and impacts of Schengen area crisis on the work of EGTCs, European Union, 2017.

Marcin Krzymuski

Managed by the Association of European Border Regions by an Action Grant (CCI2017CE160AT082) agreed with the Directorate General of Regional and Urban Policy, European Commission. Financed by the European Union.

VIII. Appendix 1.

Declaration 2018: Polish-Lithuanian Cross border functional area.²⁹

DEKLARACJA
SAMORZĄDÓW RZECZYPOSPOLITEJ POLSKIEJ: GMINY PUNSK, GMINY RUTKA TARTAK, GMINY GIBY, GMINY SEJNY, MIASTA SEJNY, GMINY SZPIŁSKA, GMINY WIŻAŃNY ORAZ
REPUBLICI LITWANSKIEJ: REJONU ŁÓDZIEJSKIEGO, REJONU KALWARYJSKIEGO, REJONU WILKOWYSKIEGO

o podjęciu wspólnych prac umożliwiających Rządowi Rzeczypospolitej Polskiej i Republici Litewskiej oraz organom Unii Europejskiej podjęcia decyzji o utworzeniu polsko-litewskiego transgranicznego obszaru funkcjonalnego w celu poprawy poziomu życia mieszkańców obszaru pogranicza polsko-litewskiego poprzez:

- Rozwój, stworzenie lub odnowienie infrastruktury
- Stworzenie i rozwój instrumentów wspierających tworzenie miejsc pracy
- Poprawę dostępności i poziomu jakości usług publicznych
- Rozwój współpracy samorządów w obszarze gospodarki komunalnej
- Wspieranie organizacji prowadzonych przez mieszkańców, których celem jest zacieśnienie współpracy między mieszkańcami samorządów Polski i Litwy

1. Samorządy deklarują wolę podjęcia wspólnych, skoordynowanych działań w celu umożliwienia Rządowi Naszych Krajów oraz organom Unii Europejskiej podjęcia decyzji o utworzeniu polsko-litewskiego transgranicznego obszaru funkcjonalnego.

2. Samorządy deklarują aktywny udział w wypracowaniu materiałów i dokumentów niezbędnych do powołania polsko-litewskiego transgranicznego obszaru funkcjonalnego.

3. Samorządy wyznaczają samorząd Miasta Sejny jako koordynatora współpracy samorządów z terenu Rzeczypospolitej Polskiej oraz samorząd Rejonu Łódzkiego jako koordynatora współpracy samorządów z terenu Republiki Litewskiej.

4. Samorządy zobowiązują się do aktywnego promowania idei utworzenia polsko-litewskiego transgranicznego obszaru funkcjonalnego wobec rządów swoich Państw oraz instytucji Unii Europejskiej.

5. Wszystkie działania samorządów w zakresie niniejszej deklaracji podejmowane będą na zasadach dobrowoli, a zasady współpracy finansowej samorządy wypracują na gruncie prawa krajowego. Samorządy nie prześludują interesów finansowych pomiędzy samorządami o robie przyrzeczności państwowej.

6. Samorządy upoważniają koordynatorów współpracy do informowania o postępie wspólnych działaniach opinię publiczną i media.

LENKIJOS RESPUBLIKOS PUNSKO, RUTKOS-TARTAKO, GIBY, SEINŲ, ŠPIŪŠKĖS, VIŽANIO VILKŲŲ IR SEINŲ MIESTO BEI LIETUVOS RESPUBLIKOS LAZDŲŲ, VILKAVIŠKIO RAJONŲ IR KALVARIJOS SAVIVALDYBIŲ DEKLARACIJA

Šia deklaracija kvičiama imtis bendrą veiksmų, siekiant sudaryti sąlygas Lenkijos Respublikos ir Lietuvos Respublikos atskaitingos institucijos bei Europos Sąjungos įstaigoms priimti sprendimus įsteigti Lenkijos-Lietuvos tarpautinę pasienio funkciją zonią, siekiant pagerinti Lenkijos-Lietuvos pasienio regiono gyventojų gyvenimo kokybę šiais veiksmais:

- Infrastruktūros plėtra, naujos įrengimas arba esamos atnaujinimas;
- Instrumentų, remiančių darbo vietų kūrimą, plėtra;
- Viešųjų paslaugų kokybės lygio bei prieinamumo gerinimas;
- Savivaldybės bendradarbiavimo plėtra ekonomikos gerinimo srityje;
- Nevyriausybinį organizacijų rėmimas skatinant Lenkijos ir Lietuvos savivaldybių gyventojų bendradarbiavimą;

1. Savivaldybės deklaruoja gerą valią pradėti bendras veiklas, siekiant sudaryti sąlygas Lenkijos Respublikos ir Lietuvos Respublikos atskaitingos institucijoms bei Europos Sąjungos įstaigoms priimti sprendimus įsteigti Lenkijos-Lietuvos tarpautinę pasienio funkciją zonią.

2. Savivaldybės deklaruoja norą bendradarbiauti rengiant priemones bei dokumentus, reikalingus Lenkijos-Lietuvos tarpautinei pasienio funkcinei zoniai įsteigti.

3. Savivaldybės pakvies Seinų miesto savivaldybę Lenkijos Respublikos savivaldybių bendradarbiavimo koordinatoriumi bei Lazdijų rajono savivaldybę Lietuvos Respublikos savivaldybių koordinatoriumi.

4. Savivaldybės įpareigoja aktyviai propaguoti Lenkijos-Lietuvos tarpautinę pasienio funkcines zonas įsteigimo idėją savo valstybių atskaitingos institucijoms bei Europos Sąjungos įstaigoms.

5. Visos savivaldybių veiklos, nurodytos parašius, bus atliekamos pagal geranoriškumo sąlygas, o finansinio bendradarbiavimo principus savivaldybės sudarys pagal savo valstybės įstatymus.

6. Savivaldybės įpareigoja bendradarbiavimo koordinatorių informuoti žiniasklaidą apie bendrą veiklą vykdomą bei viešinti ją.

10-11 Gminy
Syplisk
Kawice
Gybyci

10-11 Gminy
Syplisk
Kawice
Gybyci

10-11 Gminy
Syplisk
Kawice
Gybyci

10-11 Gminy
Syplisk
Kawice
Gybyci

10-11 Gminy
Syplisk
Kawice
Gybyci

10-11 Gminy
Syplisk
Kawice
Gybyci

²⁹ From <https://sejny.net/zdjecie/2439818>