



Easing legal and administrative obstacles in EU border regions

Case Study No. 8

Police cooperation

Complexity of structures and rules on the border

(Germany – Poland)



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Table of Contents

Abstract	5
1 Outline of the obstacle (legal and administrative) and the policy context	6
1.1 Identification of the obstacles to cross-border police cooperation	6
1.2 Bilateral agreements as a solution to obstacles	7
1.3 Divergences in legal systems	7
1.4 Different administrative and organisational structures.....	8
1.5 Different police traditions and culture	9
1.6 Lack of harmonised procedures and structures.....	9
2 Case Study Context.....	11
2.1 Geographical and historical background	11
2.2 Nature of cross-border police cooperation between Poland and Germany.....	12
2.3 Background of the criminal environment of the border regions	12
2.4 Cross-border police cooperation- organisation and instruments	12
3 Impact analysis.....	15
3.1 Impact of the obstacles to cross-border police cooperation between Poland and Germany	15
4 Solutions and good practice	18
4.1 What is working and why?.....	18
4.2 Lessons learned and good practice	18
List of references	20
List of consultees.....	22
Annex	23

Figures and Boxes

Figure 1. Key geographical points of cross-border police cooperation.....	14
Figure 2. Problem tree.....	23
Box 1. Obstacle N116 - Complexity of federal structures and rules in Germany	7
Box 2. Solutions to the obstacles.....	19

Abstract

Complexity of federal structures and rules in Germany

Cross-border police cooperation between Poland and Germany began in 1991. In 2015, a bilateral agreement between the two countries came into force with the aim to replace the previous agreements and to address the obstacles to an efficient cooperation between the police forces.

Despite the fact that cross-border police cooperation is overall positively assessed by its actors, four main obstacles have been observed in the present case study: divergences in legal systems, administrative structures (centralized/federal), diversity of traditions, and lack of harmonised procedures.

The divergences between the legal systems refer to the fact that both countries have a judicial system of their own, with different definitions, procedures, and sentences. These divergences lead to inconsistencies in the application and differences in the interpretation of the law.

The differences in the administrative structures of each country, i.e. the fact that Poland is a centralised state and Germany a federal one, lead to inconsistencies and delays in the management of administrative procedures.

The differences with regards to police traditions and overall the cultural differences between Polish and German police officers have an impact on the administrative and legal systems shaping cross-border police cooperation, mainly due to the fact that the mentalities and modus operandi are different among the German and Polish forces.

Lastly, the lack of harmonised procedures, which is an obstacle resulting from the differences in the legal and administrative structure of both countries, leads to inconsistencies in cross-border police operations and procedures.

1 Outline of the obstacle (legal and administrative) and the policy context

With the opening of the EU borders, the intervention of economic and social changes that included urbanisation, improved communication and transport, as well as the access to free trade, cross-border police cooperation in Europe developed rapidly in the mid-2000s. At the same time, these changes also brought new issues, such as the increase of organised crime¹.

Bilateral cooperation consists in the exchange of information, evidence and police records, common police operations, and the common pursuit of criminals across borders. It is defined by the European Union (EU), as being “designed to prevent, detect and investigate criminal offences across the EU. In practice, this cooperation mainly concerns serious crime (organised crime, drug trafficking, trafficking in human beings, cybercrime) and terrorism”². Cross-border police cooperation between Poland and Germany is based on this very definition. The present report focuses on the obstacles to police cooperation between the two countries.

1.1 Identification of the obstacles to cross-border police cooperation

Cross-border police cooperation in the case of Poland and Germany is relatively new, since it really began in 1991 with the end of communism and the reunification of Germany. Then, with Poland’s entry to the EU and the Schengen Area, new measures ruling cross-border police cooperation have been established while concerns rose amongst the EU countries about a possible increase of organised crime due to the opening of borders. Many obstacles were pointed out with this nascent field in cross-border cooperation. They have been progressively overcome with bilateral agreements, which entered into force in the 2000s.

The main difficulty identified as an obstacle to cross-border cooperation until the beginning of the 2000s was the delay, cost and organisation of persons’ and evidence extradition from one country to another. Extradition is the manifestation of transnational cooperation in the field of criminality. It gives a foreign criminal the possibility to be sent back to the country of his/her citizenship in order to be judged according to the national law of his/her country. This possibility was regulated at EU level³.

The main obstacles around the issue of extradition was the principle of double criminality, the prohibition of extraditions for the country’s own citizens, and the prohibition of extradition for political crimes. These elements were subject to challenges related to the proceedings, their cost and their length⁴. In 2004, the European Arrest Warrant (EAW) was implemented with the aim to enable that a “person who has committed a serious crime in an EU country but who lives in another can be returned to the first country to face justice quickly and with little administrative burden”⁵. It was also established to facilitate the surrender of a criminal from one country to another. The EAW replaced the long and complicated extradition procedures in the EU. It improved and simplified the procedures and eliminated the administrative and legal burden it generated between Poland and Germany.

¹ Stansfield, A. (2016), “Open borders are a gift to organised criminals”, The Telegraph, 13/05/2016 (accessed in October 2016)

² European Parliament, Police Cooperation, Factsheets on the European Union, (accessed in October 2016)

³ European Union (2005), Convention on extradition between Member states, EUR-Lex - I14015b - EN, 25/10/2005, (last accessed in October 2016)

⁴ Makiela, M., „Basic differences between the European Arrest Warrant and extradition procedures”, (accessed in October 2016)

⁵ European Union (2002), More effective extradition procedures: European arrest warrant, Eur-Lex 133167, (accessed in October 2016)

While the EAW has been presented as being an efficient instrument, its implementation is still criticised for showing loopholes, which may appear when EU law is transposed to the national level⁶. The EU estimates the cost of these inefficiencies at around 215 million euro. A document⁷ listing the obstacles to the EAW's efficiency has been issued by the European Parliament in 2014 with the aim of tackling these challenges through holistic solutions. Those obstacles are: the absence of an explicit ground for refusal based on the infringement or risk of infringement of human rights; incompleteness and imbalance of the EU area of Criminal Justice, as well as problems related to the functioning of the Schengen Information System (SIS) with regard to the EAW.

In 2012, a summit held between the Ministers of the Land Brandenburg, the Polish Ambassador in Germany as well as German and Polish police representatives had the objective of finding solutions to the main criminal issue affecting the cross-border region between Germany and Poland. This summit also had the aim of identifying the existing obstacles and barriers to efficient cross-border police cooperation. The identified obstacles have been listed in a catalogue which has not been made public⁸. On the basis of this document an agreement was signed and implemented in 2015 with the aim to eliminate the remaining barriers to cross-border police cooperation.

1.2 Bilateral agreements as a solution to obstacles

Cross-border police cooperation between Germany and Poland is ruled by a bilateral agreement signed on the 15th of May 2014 (the Polish-German Agreement on Cooperation between Police Forces, Border Guards and the Customs Service, which came in force on the 9th of July 2015), addressing the listed barriers and updating, completing and replacing Polish-German cross border cooperation agreements of 1995 and 2002. Its aim is to facilitate cross-border police and border guards' cooperation⁹.

Despite the fact that the Polish-German cross-border police cooperation has been overall assessed positively by all the respondents to the interviews, it still faces similar obstacles hampering its efficiency. They are presented in Box 1 below.

Box 1. Obstacle N116 - Complexity of federal structures and rules in Germany

Complexity of federal structures and rules:

- divergences in legal systems;
- different administrative structures;
- different police traditions;
- lack of harmonised procedures.

1.3 Divergences in legal systems

The interviewees mentioned divergences in the Polish and German legal systems as being the most important difficulties faced in cross-border police cooperation. Those divergences result from national differences in law-making. Indeed, every state has its own rules and legislation which correspond to EU law. Hence, this divergence of legal measures leads to obstacles in cross-border cooperation. For example, the abovementioned bilateral Agreement enabled cross-border pursuits in order to fight

⁶ Gay, C. (2006), The European Arrest Warrant and its application by the Member states, Fondation Robert Schuman, European Issues no. 16, 23/01/2006, (accessed in October 2016)

⁷ European Parliament Research Service (2014), Revising the European Arrest Warrant -European Added Value Assessment accompanying the European Parliament's Legislative own-Initiative Report , Rapporteur: Baroness Ludford MEP, European Parliament, 2014, (accessed in October 2016)

⁸ Deutsche Welle (2012), Polska I Niemcy: policjanci wspólnie szukają drog walki ze złodziejami na pograniczu", Deutsche Welle, 12/01/2012, (accessed in October 2016)

⁹ German Federal Ministry of the Interior, "Germany and Poland sign new police treaty", 19/05/2014, accessed in November 2016.

crime, allowing those pursuits through land, water and air, implying the possibility to use drones for observation. However, the use of drones is restricted – or forbidden – in some regions, which hampers the effectivity of police operations involving cross-border missions in those regions.

The divergences between the Polish and the German legal systems lead to inconsistencies in the application of the law, notably since the definitions of some offences or criminal acts – or the character of their punishment – are different in each of the penal codes. In addition, the interviewees mentioned differences in the interpretation of the law which may lead to misunderstandings and inconsistencies in the treatment of the cases, and thus in the organisation of transnational cross-border police operations.

The differences in the legal structures of the two countries also make policy-making more difficult. The creation of new measures implying cross-border police cooperation is challenging. Policy-making in the field of police cooperation should respond to the needs of both parties, however, due to the variations in national legislations, bilateral policy-making is considered challenging.

This divergence in legal and administrative systems implies the need for each police forces' team from Poland and Germany to have knowledge of the legal and administrative system of the other country and to invest into police agents' training and education for them to acquire high level technical legal and administrative knowledge.

Another legal obstacle is found in the bilateral Agreement of 2014: according to one of the interviewees, it does not include any measures related to cross-border pursuits in cases of border control breach, which can also lead to further problems in terms of offenders' prosecution.

1.4 Different administrative and organisational structures

Poland and Germany have different state structures, and thus a different organisation of administrative authorities and procedures. Germany is a federal state with 16 Länder which have their own regulations (which is comparable to having to deal with 16 different states). The Polish state is a centralised system and all police service-related activities are centralised in the "Komenda Główna Policji" (Police Headquarters) based in Warsaw.

In Poland, the entity responsible for the country's safety is the police, the Border Guards and the Municipal Guards. In Germany, the police forces are divided into two independent entities: the federal police and the police authorities in each Land. The federal police is responsible for the protection of borders within 30 km of the border. It is also responsible for the protection of national authorities, for dealing with natural catastrophes, and fighting terrorism. In those fields of operation, the federal police partners with the Polish police. In other fields, the Polish police needs to cooperate with the local/regional police. This organisation and difference in fields of operation constitutes an obstacle to the efficiency and rapidity of police procedures. Another administrative issue is observed at the prosecutor stage: this step is handled earlier in Germany than in Poland in criminal cases, which causes procedural and administrative issues and incoherencies.

Another main obstacle in cross-border police cooperation is the structural organisation of the police in each country. In Poland, the system is divided between operating actions, which need the approbation of the chief of police, and procedural actions (protocols, acts, etc.), which need the approbation of the public prosecutor. In Germany, there is no division between these actions, since police forces cooperate only with the public prosecutor. Obstacles arise in the specific field of legal assistance, where inconsistencies and significant delays can be observed, since the procedure is different. Administrative obstacles can also be noticed in the areas of access to information, information sharing and transmission procedures.

Moreover, the difference in administrative structures of each country is an obstacle to the continuity of police work, namely the investigations, observations, and judicial procedures. Indeed, those administrative differences lead to delays in the procedures, and organisational difficulties, notably in the organisation of common investigations and patrols, i.e. in the case of traffic control.

One of the interviewees from the Polish side pointed out the main organisational obstacle for them is the lack of balance between Polish and German staff: the centre for cross-border police cooperation in Świecko counts 44 police officers from Germany and 21 from Poland. The latter are overwhelmed by work and hence the need to reinforce the centre's staff on the Polish side.

In the particular case of car theft, cross-border police forces need to face issues related to the differences in organisational and administrative structures such as catching the perpetrators in the act, fast correspondence between the teams of each side of the border, and the dismantling of organised crime cells. The police forces and policy-makers from both sides of the border put an effort in improving cross-border cooperation by addressing this issue in all bilateral agreements concerning cross-border police cooperation.

1.5 Different police traditions and culture

Even if this identified obstacle is neither administrative nor legal, it is worth mentioning because it actually generates a certain number of other obstacles. One of the challenges for cross-border police cooperation is the organisation and modus operandi of coordinated police operations performed by the police forces of Poland and Germany. The modus operandi of police forces is the planned strategy implemented in case of an investigation. In the case that this planned strategy implies the cooperation of cross-border police forces, some challenges can arise, notably the fact that the ways the police teams see the actions differ.

According to one of the interview respondents, the differences in police traditions are linked to the different socio-cultural backgrounds, mentalities and work traditions of each police team, since they come from two countries with different working habits, different historical backgrounds, and different education. This difference implies that misunderstanding and the lack of synchronisation in the communication between police forces can hamper cross-border police cooperation.

Language is in fact another obstacle to cross-border police cooperation. This has been raised by all interviewees. Often German police officers do not speak Polish and vice versa. This leads to a low quality of communication between police forces. Moreover, many administrative documents need to be translated, often by external translators, which leads to additional financial and time-related costs.

1.6 Lack of harmonised procedures and structures

The lack of harmonised procedures actually results from the first two obstacles, but for analytical purposes it will be treated as a separate obstacle to cross-border police cooperation. The fact that Poland and Germany have two different state structures – centralised and federal, respectively – makes the harmonisation of legislation and procedures difficult. Even though both countries respond to EU law, which is deeply involved in harmonising legal systems and in efficient cross-border police cooperation, each country keeps its own particular rules to implement and apply legislation and procedures in criminal matters on their own territory. This makes the synchronisation of police operations and investigations challenging.

There is no law at EU level that would open the way to harmonised measures regarding internal security policies, which leads to the fact that we count as many laws establishing a framework for police work as there are countries and that we observe possible difficulties in the implementation of common frameworks and strategies in cross-border crime prevention. In others field of criminality, the aforementioned

Case study 8

obstacles to cross-border police cooperation are highly relevant for the efficient functioning of police forces in the common struggle against organised crime and criminality. Thus, crime prevention is particularly important and implies the notions of community, network and close cooperation. However, the main obstacle in that context is the fact that cooperation in criminal affairs is monitored by the Agreement signed in 2014 and set between both countries, and cross-border police cooperation in the context of crime prevention has not been included in the Agreement since it belongs to a pre-procedural stage. This structural legal issue is worth mentioning and except for the above-mentioned delays in legal assistance, other obstacles have not yet been observed given the novelty of the Agreement's implementation.

According to the interviews, the main procedural obstacle to cross-border police cooperation in Poland and Germany that stems from a lack of harmonisation is the issue of legal assistance. Obstacles in dealing with the latter are the consequence of differences in the countries' legal systems, and the procedural aspect of legal assistance needs to tackle challenges in its functioning. The modalities of legal assistance have not yet been considered by the Agreement signed in 2014 and they are subject to national laws. The consequence of this situation is that all administrative procedures related to legal assistance are extremely slow since they can take a few weeks, if not months. This obstacle has a negative impact on the efficiency of cross-border police cooperation. Similarly, there is a lack of harmonised legal advice, which is a consequence of the differences in the legal systems and administrative state structures of both countries.

According to one of the interviewees, the administrative obstacles are closely related to technical issues. They include a lack of uniformity and compatibility of wireless networks and payment cards.

2 Case Study Context

2.1 Geographical and historical background

The 472 km long German-Polish border was established at the end of WWII. It follows the Oder-Neisse trail. The official agreement marking the German-Polish border was the Zgorzelec agreement signed between the Popular Republic of Poland and Eastern Germany on July, 6th 1950. Western Germany refused to recognise the agreement up until 1970, when the inviolability of borders has been confirmed.

Cross-border cooperation is seen as an important element of regional development as well as of EU cohesion policy¹⁰. At local level, the partnership began in 1991 with a contract of cooperation signed between the cities of Zgorzelec in Poland and Görlitz in Germany with the aim of developing cultural cooperation¹¹. In 1992, a series of bilateral agreements aimed at regulating border traffic¹². On the 18th of February 2002, a bilateral agreement was concluded between Poland and Germany. It introduced the bases for cross-border police and border guards' cooperation and aimed at tackling criminality in border regions by establishing optimal principles, forms and means for operational cooperation and preventive actions¹³.

After the introduction of Schengen and the opening of borders between Poland and Germany in 2007, the eastern borders of Poland became the official borders of the EU. The opening of borders led to the need for cross-border cooperation in police matters between both countries with the aim of reducing cross-border crime.

Based on a German initiative, a police agreement aiming at increasing security and strengthening intersocietal cooperation was implemented in 2015. It had the aim of updating and improving the legislative framework of Polish-German cross-border police cooperation and eliminating the loopholes from the previous agreements.

The reason for the Agreement to focus on Germany's eastern border regions rather than on its western ones, was that the eastern borders of Germany are historically relatively new, and cooperation in crime prevention in this geographical area still requires improvement¹⁴.

In 2013, Poland initiated a law enabling foreign police forces to handle police operations on the territory of Poland. It included the protection of public safety and crime prevention during public events and mass gatherings as well as order maintenance following natural catastrophes. This law was issued as an additional measure showing the will to improve cross-border police cooperation in two very specific cases. The law entered into force in February 2014. In 2016, under the newly elected government, a Member of Parliament initiated a procedure aiming at eliminating this law on the basis of breach to national sovereignty.

In June 2016, in response to the rising risks of terrorist attacks in European countries, a measure was introduced whereby police has to cooperate to carry out identity control of people in possession of a pre-paid card for their mobile phone. The measure is in the process of being implemented.

¹⁰ Sarmiento-Mirwaldt, K., Roman-Kamphaus, U. (2013), "Cross-border Cooperation in Central Europe: A Comparison of Culture and Policy Effectiveness in the Polish-German and Polish-Slovak Border Regions", *Europe Asia Studies* 65(8) · October 2013.

¹¹ Smallbone, D., et al. (2012), *Cross-Border Entrepreneurship and Economic Development in Europe's Border Regions*, Edward Elgar Publishing Ltd., UK-USA, 2012

¹² Polish embassy in Berlin (2015), *Polsko-niemiecka umowa o współpracy służb policyjnych, celnych i granicznych*, Polish embassy in Berlin, 12.07.2015, (accessed in October 2016)

¹³ ABC (2002), *UMOWA między Rządem Rzeczypospolitej Polskiej a Rządem Republiki Federalnej Niemiec o współpracy policji i straży granicznych na terenach przygranicznych*, podpisana w Berlinie dnia 18 lutego 2002 r., ABC.com.pl website, (accessed in October 2016)

¹⁴ Federal Foreign Office, *The Coordinator of German-Polish Cooperation*, website of the German Federal Foreign Office, (accessed in October 2016)

2.2 Nature of cross-border police cooperation between Poland and Germany

Cross-border police cooperation between Germany and Poland as it is described in the Agreement of 2014 implies actions such as cross-border police patrols, pursuits, cross-border observation and undercover operations, cross-border police patrols, cross-border traffic control, exchange of information and data, management of the outcomes of traffic accidents (i.e. transporting corpses), and the collaboration between police forces in case of massive public gatherings.

The Agreement implied, apart from concrete bilateral police operations, the regular participation of police officers and Heads of Units to educational trainings, consultations, workshops for exchanging experiences and best practices, as well as conferences in order to improve the methodology and efficiency of crime prevention and tackling.

Lastly, police cooperation between Poland and Germany has been put into practice during the "BIKE" operation, which aimed at dismantling online paedophile networks. Held between January and March 2015, cooperation between the Interpol office in Wiesbaden and the Polish police headquarters in Warsaw led Polish and German police forces to arrest 38 culprits.

2.3 Background of the criminal environment of the border regions

Criminality in the border regions of Poland and Germany has significantly decreased compared to the 1990s, with a significant decrease in the number of violent crimes since the year 2000. The current OECD Better Life Index shows that out of 36 countries, Poland is the third safest country in the OECD¹⁵. In 2014, a dedicated meeting between Polish and German police authorities came to the conclusion that the main threats in the border regions between Poland and Germany are illegal migration, illicit tobacco trade, drug trafficking, and car theft, and even though criminality has decreased, the theft of vehicles, agricultural machines and bicycles is still high. A specific cross-border cooperation team has been created in 2013 to specifically handle this issue¹⁶.

More recently, cross-border police cooperation has also been shaped by the current migrant crisis. Indeed, the war in Syria which started in 2011, and the implementation of the Islamic State in the country in 2014 led to the outflow of millions of refugees in Germany. An increase of illegal transit migration can be observed between Poland and Germany as a consequence of the conflict¹⁷. It must however be stressed that there no difficulties could be observed in the Polish-German police cooperation or among border guards in that context.

2.4 Cross-border police cooperation– organisation and instruments

At national level in Poland, the office responsible for the managing cross-border cooperation is the special unit of International cooperation of the Police headquarters based in Warsaw. On the German side, the police headquarters are located in Potsdam.

Police cooperation in Polish and German border regions are localised and centralised in four municipal areas, two of which are cities located at the border and divided in two: Between Saxony and Lower Silesia these are the cities of Görlitz/Zgorzelec; between Brandenburg and Lubusz the cities of Gubin/Guben as well as the cities of Frankfurt (Oder) and Słubice, and lastly between Mecklenburg-Vorpommern and Western Pomeranian, the cities of Szczecin and Neubrandenburg (see figure 1 below). The

¹⁵ "OECD, Safety, OECD Better Life Index (last accessed in October 2016

¹⁶ Deutsche Welle (2014), „Maerkische Oderzeitung": nowa polsko-niemiecka grupa dochodzeniowa, Deutsche Welle, 17.12.2014, (accessed in October 2016)

¹⁷ Ministerstwo Spraw Wewnętrznych i Administracji, Raport o stanie bezpieczeństwa w Polsce w 2014 r., website of the Polish Ministry of Internal Affairs and Administration (accessed in October 2016)

Case study 8

police forces of those cities regularly cooperate on matters related to road traffic and safety, identity control and criminality. Despite local level cooperation, all cross-border police operations are responding to the national police headquarters. At regional level, Polish-German police cooperation takes place between the border regions (voivodships and Länder).

The specific case of the Polish-German centre for Cooperation between border services, police forces and customs in Świecko

Apart from cooperation at local level, police cooperation between Poland and Germany is also managed by a specific tool, the "Polish-German centre for cooperation between border services, police forces and customs in Świecko", based in Świecko, a town on the border between Germany and Poland next to Słubice.¹⁸

The centre, created after the cross-border agreements of 2002, focuses on Polish-German police and customs cooperation, and collaborates on a daily basis on the following issues: exchange of information, support in the coordination of actions in urgent matters, control of road traffic, identity and vehicle controls, control of people under arrest, and assistance in cross-border police forces' meetings.

Among the staff of the Centre, there are 25 police officers from the main police station of Gorzów Wielkopolski, the border guards and the customs service on the Polish side, and on the German side, the staff includes 44 officers of the national and federal police forces as well as from the customs service¹⁹. In cases with risks of high criminality or high level of threat, additional police units from the whole Polish and German territories are mobilized.

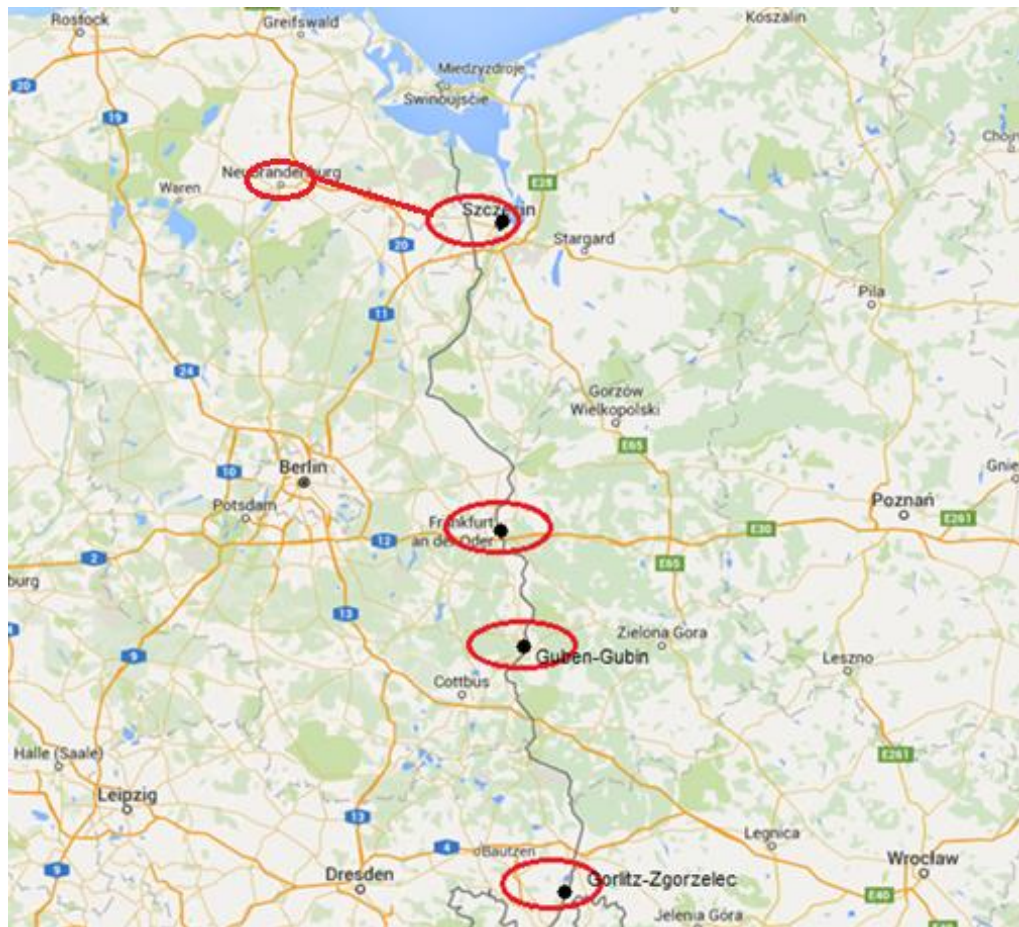
The map below gives an overview of the cross-border police cooperation at regional level and illustrates the geographical location of each city cooperating in police matters.

¹⁸ There are four Police and customs cooperation centres in Poland, which focus on the western and southern borders of Poland (this one in Germany, two in the Czech Republic, and one in Poland focused on operations between Poland and Slovakia).

¹⁹ EU Police information exchange (2015), The use of existing information systems to increase the efficiency of cross-border information exchange and effectiveness of crime prevention, Programme Prevention of and fight against crime (ISEC) 2007-2013, Project summary.

Case study 8

Figure 1. Key geographical points of cross-border police cooperation



Source: Own elaboration based on Google Maps

Apart from the authorities described above (local cooperation between border cities, and the centre in Świecko), the working group "Granica", established in 2012, has been created to tackle cross-border crime through optimisation in the use of means and forces, as well as to increase the safety of border regions' residents. This pilot project is a cross-border cooperation unit with staff from both countries.

3 Impact analysis

3.1 Impact of the obstacles to cross-border police cooperation between Poland and Germany

1. Impact on the effectivity of police cooperation

The above-mentioned legal and administrative obstacles are likely to hamper the possibility of stable and effective cross-border police cooperation between Poland and Germany and actually mainly impact on the effectiveness of police operations.

The obstacles stemming from the divergent legal systems have a negative impact on the application and implementation of legislation in Poland and Germany. They lead to misunderstandings between police forces, inconsistencies in the treatment of criminal cases, and difficulties in the organisation of cross-border cooperation in its practical dimension. A significant impact can also be noticed on policy-making: since the legal systems in Poland and Germany are different, collaboration on policy-making on cross-border cooperation is very challenging, and as a result, all the signed common agreements and bilateral measures face structural issues. The inconsistencies and obstacles related to different legal systems have an impact on the delays of procedures and treatment of cases. This in turn impacts on the effectivity of cross-border police cooperation.

As far as the organisational and administrative obstacles are concerned, it must be noticed that the divergence of state structure (centralised/federal) generates administrative difficulties such as delays, discrepancies and a lack of synchronisation between the police entities. Considering police work on the field, the described obstacles affect the continuity of police work, which can jeopardise the citizen's safety. The fact that the prosecutor procedures are different in Poland and Germany has a negative impact on the citizen who needs to face longer delays. Similar observations can be made on the issue of legal assistance, where a lack of efficiency has an impact on the satisfactory functioning of the system as well as on the citizens' peace of mind.

The lack of harmony in the organisation and management of cross-border police cooperation, related to the difference of the states' administrative structures (federal/centralised), makes it more difficult for police forces of Poland and Germany to coordinate in administrative procedures and in field operations. The organisation of common investigations, police patrols and operations is thus subject to organisational difficulties.

The difference of police traditions, mentality and education, as well as the obstacle related to the difference of language have the effect of creating incompatibilities between police forces and difficulties in police cooperation on the field. The divergences in technical aspects create challenges in the treatment of criminal cases and slow down various procedures including complaints.

2. Socio-economic impact

The above-mentioned obstacles to cross-border cooperation also have a socio-economic impact. The fact that the divergences in legal systems and in administrative structures impact on the effectiveness of police work in turn has an effect on the well-being of citizens, mainly as far as their feeling of safety is concerned. Indeed, police patrols composed of Polish and German police officers are said to increase the feeling of safety among the residents of Polish-German border regions. Inversely, the fact that police cooperation between the German and Polish police is hindered by a number of obstacles can cause a feeling of insecurity among citizens. Thus, this also has an impact on the citizens' trust in their local and national government since it questions their trust in the legal and administrative system as well as in the efficiency of police forces.

The complexity of procedures is a burden for citizens in the area of legal assistance and prosecution which are struck by inconsistencies in the way they are structured on both sides of the border. Hence, tremendous delays can be expected, which is an important element affecting the well-being of both citizens and police forces. Indeed, every police intervention in citizens' lives can be a trial: people requiring police forces are likely to experience psychological conditions such as stress, discomfort, or – in more serious cases – despair, as well as financial needs for services such as legal or notary advice. Thus, those delays imposed by the loopholes in the legal assistance processes are likely to add unwanted challenges and charge to the citizens' lives and well-being. Furthermore, these challenges also affect police forces, since they are helpless while coping with situations in which the delay is particularly long. In those situations, they cannot do anything but show empathy and understanding to the citizen, but cannot make any concrete moves to improve the situation or speed up the processes.

It should be added that the lack of access to information also has an effect on the citizen, since it creates the feeling of blurriness; people are confronted with unclear procedures, fuzzy proceedings, and are feeling left out knowing nothing about the situation they are in.

As far as the economic aspect is concerned, it should be noted that the inconsistencies in the application of the law and in the implementation of procedures, as well as the length of some aspects of police cooperation has the effect to weigh on public finances, since they generate additional costs. It thus impacts on the taxpayer and on the state budget.

3. Regional impact and statistics

In order to assess the regional impact of the legal and administrative obstacles to cross-border cooperation, it is necessary to analyse some statistics. A report published in 2014 by the ISP and the Konrad Adenauer Stiftung²⁰ describes criminal statistics in the German region of Brandenburg, showing the impact of criminality in time and in different areas. The figures show that criminality decreased in cross-border regions in recent years, but at regional scale, the cross-border regions are the ones suffering of the highest criminality rates. In Guben, for example, the German statistics show that 1698 criminal acts have been registered in 2015, compared to 2302 in 2014²¹. In the year preceding the entry of Poland into the EU, 34 000 crimes have been registered in the Brandenburg region, even though the numbers are decreasing.

It can be noticed that the crimes' detection rates in the border regions of Brandenburg remain at 57.3%, which is higher than for the Land as a whole. Among the perpetrators, 38.7% of did not have the German citizenship, which is 48.1% more than in 2012.. Among this group, Russian citizens (39.4%) and Polish citizens (34.1%) count to the largest groups. This observation shows a change compared to the figures of 2012 where 44.7% of perpetrators were Polish and 8.7% were Russians.

As far as the nature of the crimes is concerned, 44.1% of registered crimes are thefts which are mostly carried out in cross-border regions: there have been 4640 thefts registered in cross-border regions in 2013 and 3410 in the Brandenburg region as a whole. Currently, despite a recent improvement, one third of all crimes are detected in border regions, which is worse than before Poland joined the EU. This has an impact on the feeling of insecurity among the inhabitants of cross-border regions.

The most important change in Brandenburg in 2013 concerned crimes related to the freedom of movement, namely through illegal migration and the inflow of asylum seekers. The number of illegal entries increased from 554 in 2012 to 1587 in 2013 and

²⁰ Łada, A. (2014), *Slogany czy konkrety? Polsko-Niemiecka Współpraca na rzecz zwalczania przestępczości przygranicznej – Fakty i Ocena*, Konrad Adenauer Stiftung, Instytut Spraw Publicznych, Warsaw, 2014

²¹ Matłacki, A. (2016), "Spadła przestępczość przygraniczna", *Wiadomości Gubińskie*, 7.04.2016, (accessed in October 2016)

Case study 8

mainly concern people from Russia (Caucasus and Chechenia) who aimed to reach Germany.

On the Polish side of the border, criminality can also be observed, even though detailed figures are not being published: in 2012, the number of crimes committed in Poland by German citizens amounted to 112 (303 in 2004). In border regions, the crimes that can be observed include: gas theft (German drivers leaving the gas stations without paying), other small thefts, throwing away garbage in forests on the Polish side of the border. It can however also be observed that human trafficking and sexual crimes, which were both significant occurrences in the beginning of the 2000s, are now rare²².

Statistics show the particular vulnerability of border regions to criminality despite an improvement in recent years, compared to the rest of the region or the country. Border regions are vulnerable because they represent transit routes to significant amounts of people. At this point, it is important to ask: are those regions more subject to crime because they are areas of transit, or do they experience more criminality because of the obstacles to cross-border cooperation which affect police force effectiveness?

²² Łada, A. (2014), Slogany czy konkrety? Polsko-Niemiecka Współpraca na rzecz zwalczania przestępczości przygranicznej – Fakty i Ocena, Konrad Adenauer Stiftung, Instytut Spraw Publicznych, Warsaw, 2014, (accessed in October 2016)

4 Solutions and good practice

4.1 What is working and why?

Legal and administrative obstacles to cross-border police cooperation make the coordination of common actions more complex. However, professional autonomy, trusted personal contacts and common interest are factors that contribute to successful police cooperation²³.

This mutual trust and relationship building is the key to cooperation's success, and both parties are very focused on making this mutual trust possible. The interviewees highlighted the fact that team building activities and meetings outside of work are a very regular activity that both Polish and German police forces are pursuing, with the aim to build sustainable and strong relationships both at work and outside of work.

In the particular case of cooperation, communication is a key element. Communication and the exchange of information and experience between the hierarchic authorities and the police officers, among police officers and among officers of higher rank in the hierarchy is key to overcome the obstacles to an effective cross-border cooperation. This communication is very well led among Polish and German police forces and it therefore builds the basis for the success of their cooperation.

One particular tool that facilitates cross-border police cooperation between Poland and Germany is the centre for police cooperation in Świecko, which managed to set stable and efficient operations, and a fast and effective system of information exchange. The centre is seen as a model of best practice in cross-border police cooperation.

4.2 Lessons learned and good practice

Given the lucidity of the interviewed police forces as far as the obstacles to effective cross-border cooperation between Polish and German police forces is concerned, it is necessary to point out the will, from both sides, to improve the situation as much as possible and to achieve harmonious cooperation in police operations.

Therefore, police forces continuously monitor the changes in legislation and meet with policy makers to adapt legislation to cases and challenges met on the field despite structural and administrative disparities between the countries. This strong cooperation between people who make the law and those who implement it in the context of bilateral agreements in cross-border police cooperation can be considered best practice.

Moreover, some elements are seen as being a factor of success by the interviewees. The decrease in criminality has been mentioned as one important change compared to the previous years. This improvement is linked to the effective information sharing systems between the different regional units (voivodships and Länder), and between the centre in Świecko and municipal police forces. The latter is seen as an example of good cross-border police cooperation. The effectivity of information sharing leads to an efficient and quick reaction in the context of catching crimes in the act, and thus a better service to the citizen in terms of security.

Another good practice to mention are the numerous information offices alongside the border which aim to inform citizens about the legislation and related procedures, and offer legal advice in all fields.

Despite the fact that the language barrier is neither a legislative nor an administrative obstacle, it has been mentioned as a barrier to cross-border cooperation in this study, notably at the administrative level. Moreover, while bilingualism is observed in the higher cooperation units (at voivodship/Länder level), it is to be noticed that many police officers working on the field are not always fluent in both languages, which

²³ Block L (2008). Combating Organized Crime in Europe: Practicalities of Police Cooperation. Oxford University Press, Vol. 2 No. 1

Case study 8

leads to some difficulties during mixed patrols. The language barrier is dealt with through innovative solutions which can be considered as good practice: theory and practice lessons for police officers on both sides of the border: the police officers attend theory lessons followed by exchange studies where Polish officers join their German counterparts for a one month observation mission. During this mission, both officers are on patrol and need to communicate in German. The same exchanges are organised for German officers, who are sent to Poland and are expected to be on patrol with Polish officers and to communicate in Polish. Thus, the language issue is considered as a barrier but measures are actively taken to improve the situation.

The organisation of common police patrols in border regions for the control of driving licences and alcohol abuse, and the conclusion of common agreements to fight terrorism (mainly through controlling prepaid mobile phone cards) are currently in the process of being approved by the respective parliaments. Cross-border police patrols are implemented not only to tackle the issue of language barrier, but also to reinforce cross-border cooperation.

Box 2. Solutions to the obstacles

Solutions to the obstacles to efficient cross-border cooperation between Poland and Germany

- Continuous exchange of data and information
- Exchange of experience and best practices at the occasion of transnational events and conferences
- Monitoring of legislative changes in each country by the other country
- Organisation of vocational training sessions and language courses
- Improvement of the coordination strategies between the cross-border departments of the police offices in each country
- Common decisions on new measures through cooperation at the stage of policy-making
- Creation and implementation of common projects
- Integration of Polish police officers into the German police forces and vice versa
- Improvement and modernisation of technical tools (software, database, etc.), in order to facilitate the administrative tasks and to overcome the legislative loopholes and administrative obstacles to an efficient cross-border police cooperation

The novelty of the Agreement of the 15th of May 2014 is one of the elements that maintains some of the legal and administrative obstacles to the Polish-German police cooperation. Indeed, according to the interviewed experts little time has passed since the enforcement of the new measures, and the cross-border police forces have not yet come across new specific obstacles. Since the Agreement entered into force on the 9th of July 2015, the experience with the new measures planned to be implemented on the field still remain to be seen. With time, the cross-border police forces will be able to overcome the new obstacles related to this recent police cooperation agreement.

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Case study 8

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The elaboration of the present case study involved a first step implying emails requested an interview with Police officers used to cross-border cooperation. The emails were sent to:

- Polsko-Niemiecki Centrum Współpracy w Świecku ('pncw.swiecko@go.policja.gov.pl')
- Office of International Cooperation of the Polish Police Headquarters ('bmwp.kgp@policja.gov.pl')
- Border Guards of the German-Polish border and ('komendant.nadodrzanski@strazgraniczna.pl' and 'sdo.nadodrzanski@strazgraniczna.pl')
- Polish Police Information Office ('sip@policja.gov.pl')
- Polish police Headquarters ('kancelaria.gabinetkgp@policja.gov.pl')
- German Police Headquarters 'presse@polizei.bund.de' and 'presse.berlin@polizei.bund.de'

An excerpt of the project's contract and a list of questions was figuring among the attachments to the emails. The questions were divided into four sections: 1) identification of the obstacles to cross-border police cooperation, 2) cause of the existence of those obstacles, 3) impact and consequences of those obstacles on cross-border police cooperation, and 4) Measures taken to address those obstacles.

The second step of the interview request implied phone contact with the same entities, added with the central police stations of Zgorzelec, Gubin, Frankfurt an der Oder and Szczecin.

The email and phone enquiries were unsuccessful as far as proceeding to interviews, except with the Border guards of Nadodrzańskiego Oddziału Straży Granicznej (border Guards). However, the centre in Świecko clarified that the procedure for obtaining police related information in Poland implied contact with the National Police Headquarters in Warsaw.

After request by writing and justification by the R&D office (Wydział Badań i Analiz Gabinet Komendanta Głównego Policji) of the purpose of the present study, came the third step of the interview process: the Chief of police designated three professionals who responded to the interview:

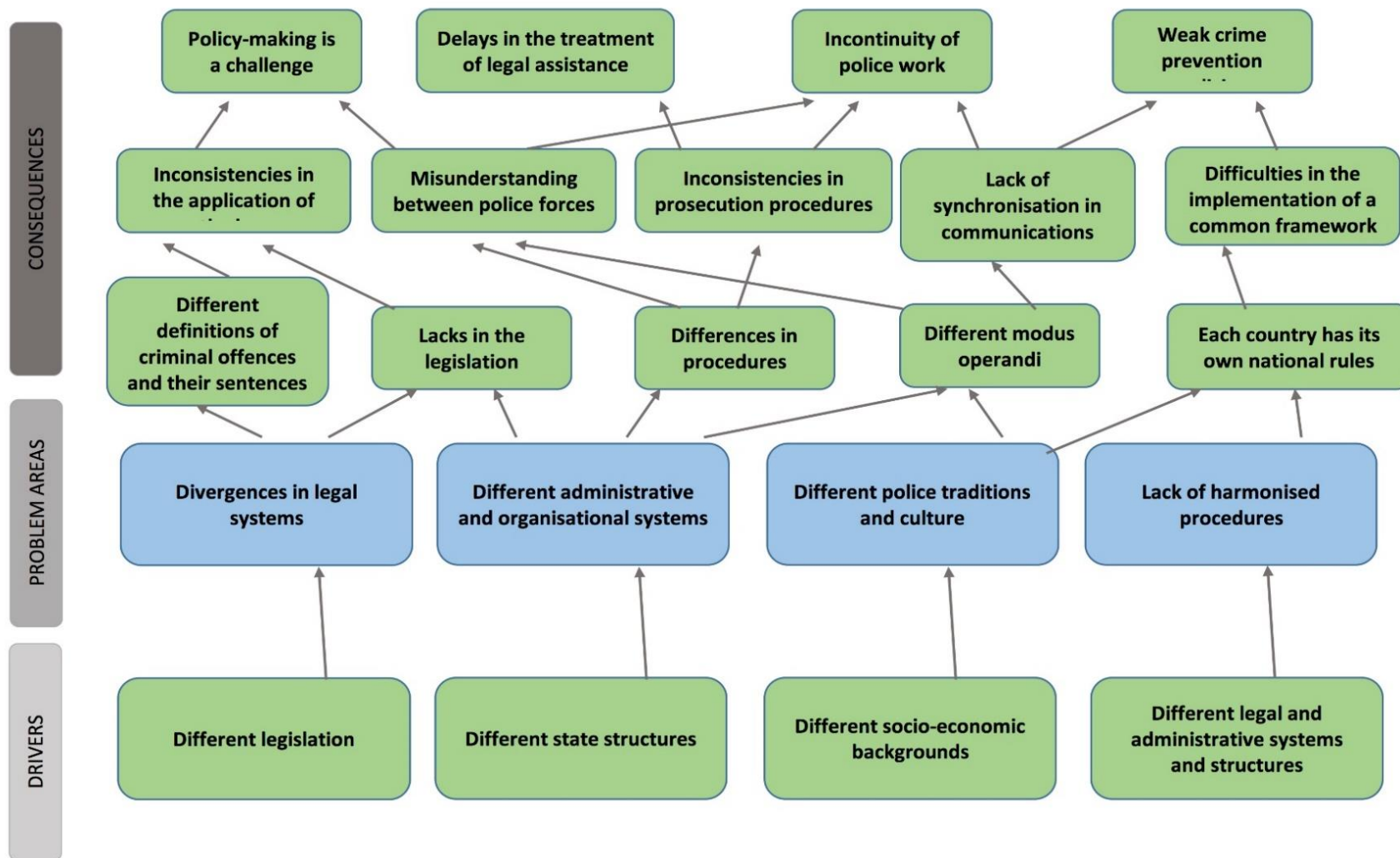
- A Liaison Officer of the Polish police in Berlin
- A legal adviser of the Polish police headquarters
- A specialist of the Office for the Coordination of Cooperation Operations of the Office for International Police Cooperation at the Polish police Headquarters.

The conversations were structured and recorded.

After noticing the obvious lack of interviews from the German side, another set of e-mails have been sent to all police offices of the German border regions (Saxony, Brandenburg and Mecklenburg Vorpommern). The Neubrandenburg Bundespolizei (Mecklenburg-Vorpommern), answered to the proposed questionnaire by email at the end of August.

Annex

Figure 2. Problem tree



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