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A roadmap towards finding solutions to obstacles to cross-border cooperation

I. Understanding the obstacle

To understand the obstacle, it is useful to make an analysis of:

- the general context of the obstacle;
- the area(s) of law that the obstacle touches on;
- the specific obstacle: What is it? In what way does it hamper cross-border cooperation in this specific border region?
- the nature of the obstacle:
 - is it a legal obstacle, so it originates in conflicting/missing laws?
 - is it is an administrative obstacle, meaning that it originates in a practice of the law?
 - is it due to a lack of knowledge?
 - is it due to a lack of cooperation?
- possible other obstacles that comes along with it.

II. Assessing the obstacle

Once it is clearer what the obstacle is about, it is helpful to have a deeper look at:
[if the obstacle is of a legal or administrative nature]:

- the explicit indication of the precise legal provisions of all Member States involved
- the origin of the obstacle:
 - [if of legal nature]
 - does it originate in EU law?
 - does it result from national legislation?
 - does it happen because of sub-national law?

[if of administrative nature]

- does it originate in a rule?
- does it result from a practice?
- the origin of the cause of the obstacle:
 - is it because of a lack of regulation?
 - is it because of the incompatibility of the laws on both sides of the border?
- the explicit indication of the competent authorities

[if the obstacle is due to a lack of knowledge or of cooperation]:

- the explicit indication of the precise legal provisions of all Member States involved that are relevant to the obstacle

III. Understanding what possible solutions there are

Based on the information gathered above, it is possible to assess which solutions would be the most helpful given the specific context.

There are many possible solutions – these are:

- of a legal nature:
 - At the European level
 - Making revisions to European regulations
 - Adopting or revising the transposition of European directives
 - Adding exception
 - At the national level or subnational level
 - Making revisions to national/subnational law in one member state
 - Making revisions to national/subnational law in all member states involved
 - Adding exception to national/subnational law in one member state
 - Adding exception to national/subnational law in all member states involved
 - Stipulating Bilateral Agreements (new or revision)
 - Stipulating supranational solutions (eg. Benelux)
- of an administrative nature:
 - at the national level or subnational level
 - introducing new or revised joint administrative procedure
 - creating committees or other coordination structures (including EGTCs, info points, etc)
 - integrating into already existing institution
- of other nature:
 - Awareness raising actions
 - Training action
 - New/revised coordination mechanisms
- MoU, strategic approach, set-up of a new institution (e.g. EGTC) to better coordinate cooperation, case-by-case approach etc.

Other relevant aspects to look for

- Helpful general/further information on the case
- References to similar obstacles/solutions in other border regions: Do comparable solutions already exist in other cross-border areas/for other areas of law? Can those solution approaches be applied to this case? Are there best-practices that can be learned from?