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TEMPLATE: FINAL REPORT BY THE EXPERT

Advice case title: French-Luxembourg emergency management community

Full official name of the advised entity: EGTC Alzette-Belval

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¹ Please quote the place and date of publication of the legal texts. For reference, see the [b-solutions: Solving Border Obstacles. A Compendium 2020-2021, p 160 – 175](#)

I. Executive summary

The French and Luxembourgish emergency numbers are geolocalised, but only on the national scale and not with the nearest hospital from the call, nearly never allows the intervention of the closest emergency relief on the French-Luxembourgish border. The only possible arrangement is when the formal request is sent by the care team arriving on spot to the regulating doctor (and for extreme emergency only).

The question that arises is how to coordinate the action of the French and Luxembourg emergency organizations (French SAMU at the border and Luxembourgish CGDIS) and make it possible to call on the mobile rescue service closest to an accident occurring within the Franco-Luxembourg cross-border region, regardless of the origin of the organization on which it depends.

The solution would be to link the software for processing 112 and 15 calls received by the SAMU services of the hospitals of the French departments bordering Luxembourg, i.e. those of Moselle (57) and Meurthe-et-Moselle (54) with that of the CGDIS in Luxembourg. In order to harmonize the software of management of the 112 calls between the French border SAMU and the Luxembourg SAMU, it will be necessary to conclude agreements between the organizations in charge of receiving the emergency calls and of organizing the assistance, namely, on the French side, the health establishments, and, on the Luxembourg side, the CGDIS.

II. Description of the obstacle with indication of the legal/administrative provisions causing the obstacle

The territory of Alzette Belval (more than 100,000 inhabitants) has a Luxembourg regional hospital located in Esch-sur-Alzette with emergency services.

The SAMU (Service d'Aide Médicale Urgente) is a hospital service/emergency medicine structure created within public and private health establishments.

On the French side, the nearest hospitals, the hospitals of Thionville (57) and Nancy (54) are equipped with this service.

These emergency medicine structures organize the treatment of emergencies outside the hospital. The SAMU includes the center that receives calls made to "15" or "112" which can send a Mobile Emergency and Resuscitation Service (SMUR) (composed of a medical team, a vehicle and equipment to intervene at the request of the SAMU) or call on the firemen (the SDIS - departmental fire and rescue service which is a public establishment of the department) to take care of victims.

The Grand Duchy of Luxembourg, on the other hand, has merged its various fire and medical rescue services behind a single number: 112. From now on, the communal fire and rescue services, the civil protection, the SAMU and the fire department are grouped together and form the Corps grand-ducal d'incendie et de secours (CGDIS) (Luxembourg Law of March 27, 2018) which is a public establishment of an administrative nature placed under the supervision of the minister.

In the case of an accident or vital incident happened on the French side of Alzette Belval, the emergency number (15 or 112), refers directly to the Urgent Medical Aid

Service (SAMU in French), attached to the French hospitals. The SAMU will decide whether to send the firemen (accident on the public road), the Emergency Medical Service and Resuscitation (vital emergency) or an ambulance. But, apart from firemen, the emergency services will come from French hospitals (30 km from the place of call) and not from Luxembourg (5 km from the border). The intervention time is therefore greatly lengthened.

Thanks to the French-Luxembourg frame agreement (signed in 2016), it is legally possible for the emergency relief to intervene in the neighboring country (but subject to duly noted unavailability from the emergency of this country). **The problem is that the emergency number is geolocalised, but only on the national scale and not with the nearest hospital from the call**, nearly never allows the intervention of the closest emergency relief. The only possible arrangement is when the formal request is sent by the care team arriving on spot to the regulating doctor (and for extreme emergency only)

The question that arises is how to coordinate the action of these French and Luxembourg organizations (French SAMU at the border and Luxembourgish CGDIS) and make it possible to call on the mobile rescue service closest to an accident occurring within the Franco-Luxembourg cross-border region, regardless of the origin of the organization on which it depends?

III. Description of possible solution(s)

Link the software for processing 112 and 15 calls received by the SAMU services of the hospitals of the French departments bordering Luxembourg, i.e. those of Moselle (57) and Meurthe-et-Moselle (54) with that of the CGDIS in Luxembourg: to do so it will be necessary for these organizations to conclude one or more cross-border cooperation agreements (a framework agreement providing for the harmonization of the software and several technical agreements carrying out this harmonization)

In order to harmonize the software of management of the 112 calls between the French border SAMU and the Luxembourg SAMU, it will be necessary to **conclude agreements between the organizations in charge of receiving the emergency calls and of organizing the assistance, namely, on the French side, the health establishments, and, on the Luxembourg side, the CGDIS.**

It must be noted that French domestic law authorizes health establishments to conclude international agreements with public law bodies, such as the Luxembourg CGDIS (both entities have their own legal personality and are therefore perfectly capable of acting in law), but only in compliance with France's international commitments.

However, the application agreement concerning the implementation of the Franco-Luxembourg framework agreement on cross-border health cooperation of November 21, 2016 does not include either the French border health establishments or the Luxembourg public establishment CGDIS among the persons and authorities entitled to conclude cross-border cooperation agreements in the health sector. Therefore, **the application agreement would have to be amended to this effect.**

Another solution would be an ad hoc authorization given by the Franco-Luxembourg CIG (Intergovernmental Commission) to the SAMU centres to enter into agreements with each other.

IV. A full list of all legal provisions relevant to the case with the correct citation both in original language and in English

CADRE INTERNATIONAL/ TRANSFRONTALIER

ACCORD-CADRE ENTRE LE GOUVERNEMENT DE LA RÉPUBLIQUE FRANÇAISE ET LE GOUVERNEMENT DU GRAND-DUCHÉ DE LUXEMBOURG SUR LA COOPÉRATION SANITAIRE TRANSFRONTALIÈRE (ENSEMBLE UN ACCORD D'APPLICATION), SIGNÉ À LUXEMBOURG LE 21 NOVEMBRE 2016, Pour la partie française: Décret n° 2019-1319 du 9 décembre 2019, JORF n°0287 du 11 décembre 2019;

Pour la partie luxembourgeoise, Les conditions requises pour l'entrée en vigueur de l'accord-cadre désigné ci-dessus, approuvé par la loi du 18 juillet 2018 (Journal officiel du Grand-Duché de Luxembourg, n° 599 du 19 juillet 2018), ayant été remplies le 26 août 2019, ledit acte entrera en vigueur à l'égard des deux Parties contractantes le 1er octobre 2019.

Article 1er

Objet

1. Le présent accord-cadre a pour objet de préciser le cadre juridique dans lequel s'inscrit la coopération sanitaire transfrontalière entre la France et le Luxembourg dans la perspective :

- d'assurer un meilleur accès à des soins de qualité pour les populations de la zone frontalière ;
- d'assurer une continuité des soins à ces mêmes populations ;
- d'assurer, en cas d'indisponibilité des moyens nationaux, le recours le plus rapide aux moyens de secours d'urgence ;
- d'optimiser l'organisation de l'offre de soins en facilitant l'utilisation ou le partage des moyens humains et matériels ;
- de favoriser l'échange et le transfert de connaissances et de bonnes pratiques.

2. La concrétisation de la coopération visée par le présent accord-cadre se fait au moyen des conventions de coopération définies à l'article 4 dont la conclusion relève des autorités compétentes désignées à l'article 1er de l'accord d'application du présent accord-cadre.

Article 2

Champ d'application

1. Le présent accord-cadre est applicable à la zone frontalière suivante :

- en République française, à la Région Grand-Est ;
- au Grand-Duché de Luxembourg.

(...)

Article 4

Convention de coopération

1. Pour l'application du présent accord-cadre, **les deux Parties désignent dans l'accord d'application** visé à l'article 3, **les autorités ou institutions qui peuvent**

conclure, dans le domaine de compétence qu'elles détiennent en vertu du droit interne qui leur est applicable, **des conventions de coopération**.

2. Ces conventions organisent la coopération entre structures, ressources sanitaires et secours d'urgence situées dans la zone frontalière, y ayant un point d'ancrage ou faisant partie d'un réseau intervenant dans cette zone. Elles peuvent prévoir à cette fin des complémentarités entre les structures, les ressources sanitaires et les secours d'urgence existants, ainsi que la création d'organismes de coopération ou de structures communes, en fonction des déficits et des besoins constatés en matière d'offre de soins.

3. Les conventions de coopération peuvent porter notamment sur les domaines suivants :

- **l'intervention transfrontalière des professionnels de santé ;**
- **l'organisation des secours d'urgence et du transport sanitaire des patients ;**
- (...)

4. Ces conventions prévoient les conditions et les modalités obligatoires d'intervention des structures de soins, des secours d'urgence, des organismes de sécurité sociale et des professionnels de santé et agents des services de secours d'urgence ainsi que de prise en charge des patients. Ces conditions et modalités sont énumérées à l'article 2 de l'arrangement administratif, en fonction du champ matériel concerné.

Dans tous les cas, les conventions de coopération précisent :

- les champs matériel, territorial et personnel auxquels s'applique la convention ;
- la durée et les conditions de dénonciation de la convention de coopération ;
- les mécanismes de prise en charge financière des frais, les tarifs et les remboursements des prestations, faisant l'objet de la convention de coopération, en conformité avec le droit interne des Parties.

ACCORD D'APPLICATION CONCERNANT LA MISE EN ŒUVRE DE L'ACCORD-CADRE ENTRE LE GOUVERNEMENT DE LA RÉPUBLIQUE FRANÇAISE ET LE GOUVERNEMENT DU GRAND-DUCHÉ DE LUXEMBOURG SUR LA COOPÉRATION SANITAIRE TRANSFRONTALIÈRE

Article 1er

Personnes et organismes compétents

En application du paragraphe 1 de l'article 4 de l'accord-cadre, les personnes et autorités suivantes sont habilitées à conclure des conventions de coopération dans le secteur de la santé, y compris pour les services d'urgence sanitaires :

1 - **Pour la France**, dans le cadre de leurs compétences respectives conformément au droit national en vigueur, **l'Agence régionale de santé Grand Est (ARS), la Caisse primaire d'assurance maladie (CPAM) de la Moselle** en tant que CPAM référente pour cette zone frontalière **ainsi que, le préfet de zone de défense et de sécurité et les préfets de département** ;

2 - **Pour le Luxembourg**, dans le cadre de leurs compétences respectives, **les ministères ayant la santé, les services de secours et la sécurité sociale dans leurs attributions, ainsi que la Caisse nationale de santé.**

DROIT INTERNE FRANCE

Les établissements de santé sont régis par les articles L6111-1 à L6163-10 du Code de la santé publique, JORF n°0022 du 27 janvier 2016

Les conventions de coopération des établissements de santé : Article L6134-1 du Code de la santé publique (JORF n°0022 du 27 janvier 2016)

Dans le cadre des missions qui leur sont imparties et dans les conditions définies par voie réglementaire, les établissements de santé publics ou privés à but non lucratif peuvent participer à des actions de coopération, y compris internationales, avec des personnes de droit public et privé. Pour la poursuite de ces actions, ils peuvent signer des conventions, participer à des groupements d'intérêt public, des groupements d'intérêt économique ou des groupements de coopération sanitaire ou constituer entre eux des fédérations médicales interhospitalières.

Pour les actions de coopération internationale, les établissements de santé publics ou privés à but non lucratif peuvent également signer des conventions avec des personnes de droit public et privé, dans le respect des engagements internationaux souscrits par l'Etat français.

LOI LUXEMBOURGEOISE DU 27 MARS 2018 PORTANT ORGANISATION DE LA SECURITE CIVILE ET CREATION D'UN CORPS GRAND-DUCAL D'INCENDIE ET DE SECOURS, JO du Grand-Duché de Luxembourg, n° A221, Version consolidée applicable au 01/01/2023

Chapitre II Le Corps grand-ducal d'incendie et de secours

Section 1 : Statut juridique, missions et siège

Art.3

Il est créé un Corps grand-ducal d'incendie et de secours sous forme d'un établissement public à caractère administratif, chargé de l'organisation et de la mise en œuvre des missions d'incendie et de secours au pays telles que définies à l'article 4.

Le CGDIS est placé sous la tutelle du ministre.

Le CGDIS dispose de la personnalité juridique et jouit de l'autonomie financière et administrative.

Le CGDIS est subrogé dans les droits et obligations de l'État du chef de l'Administration des services de secours.

Le transfert des compétences de gestion prévu par la présente loi au profit du CGDIS emporte transfert de la responsabilité civile de l'État et des communes relative aux dommages résultant de l'exercice de ces compétences, à l'exception des dommages à charge de l'État survenus lors de missions de sécurité civile et de missions humanitaires en dehors du territoire du Grand-Duché de Luxembourg sur ordre du Gouvernement. La responsabilité des communes demeure toutefois susceptible d'être engagée, dès lors que les dommages en cause trouvent en tout ou en partie leur origine dans une faute commise par les autorités communales dans l'exercice de leurs attributions. Toutefois, au cas où le dommage résulte en tout ou en partie de la faute d'un agent ou du mauvais fonctionnement du CGDIS, la responsabilité de celles-ci est atténuée à due concurrence.

Le siège du CGDIS est à Luxembourg.

Art. 4.

Le CGDIS a comme mission la planification, la mise en œuvre et l'organisation :

- a) des secours aux personnes victimes de détresses vitales, d'accidents, d'événements calamiteux, de catastrophes, de sinistres et d'incendies, du transport en ambulance dépêché par le central des secours d'urgence vers un service d'urgence d'un centre hospitalier participant au service de garde, tel que visé à l'article 4, paragraphe 6 de la loi du 8 mars 2018 relative aux établissements hospitaliers et à la planification hospitalière ;
- b) de la prévention, de la protection et de la lutte contre les incendies ;
- c) de la lutte contre les pollutions par produits nucléaires, radiologiques, biologiques et chimiques ;
- d) des mesures destinées à sauvegarder les biens, y compris l'environnement et le patrimoine culturel, lors d'événements calamiteux, de catastrophes, de sinistres, d'accidents, d'incendies, de crues et d'inondations ;
- e) de l'assistance internationale des secours en dehors du territoire du Grand-Duché de Luxembourg en cas d'événements calamiteux ;
- f) des dispositifs prévisionnels de secours lors de manifestations ou d'événements comportant un risque particulier ;
- g) de la formation en matière de lutte contre l'incendie et de secours ;
- h) du Service d'aide médicale urgente, en abrégé SAMU.

Le CGDIS opère le Service d'incendie et de sauvetage pour le compte de l'exploitant de l'aérodrome.

Le CGDIS concourt à l'évaluation et à la prévention des risques technologiques ou naturels, à la gestion de crises nationales, ainsi qu'aux secours d'urgence. Il est en charge des relations opérationnelles avec des organisations de sécurité civile au niveau transfrontalier, interrégional, européen et international.

En aucun cas, le CGDIS ne peut être chargé de missions de maintien de l'ordre public ou de gardiennage.

ENGLISH

INTERNATIONAL/CROSS-BORDER FRAMEWORK

FRAMEWORK AGREEMENT BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF THE GRAND DUCHY OF LUXEMBOURG ON CROSS-BORDER HEALTH COOPERATION (TOGETHER WITH AN IMPLEMENTATION AGREEMENT), SIGNED IN LUXEMBOURG ON 21 NOVEMBER 2016

For the French part: Decree no. 2019-1319 of 9 December 2019, Official gazette of the French Republic no. 0287 of 11 December 2019;

For the Luxembourg part, The conditions required for the entry into force of the framework agreement designated above, approved by the law of 18 July 2018 (Official gazette of the Grand Duchy of Luxembourg, no. 599 of 19 July 2018), having been met on 26 August 2019, the said act will enter into force with regard to both Contracting Parties on 1 October 2019.

Article 1

Subject

1. The purpose of this framework agreement is to specify the legal framework for cross-border health cooperation between France and Luxembourg with a view to:
 - to ensure better access to quality care for the populations of the border area ;
 - to ensure continuity of care for these same populations;
 - to ensure, in the event of unavailability of national resources, the fastest possible recourse to emergency resources;
 - to optimize the organization of the care offer by facilitating the use or sharing of human and material resources;
 - to promote the exchange and transfer of knowledge and good practices.
2. The cooperation referred to in this framework agreement shall be implemented by means of the cooperation agreements defined in Article 4, the conclusion of which is the responsibility of the competent authorities designated in Article 1 of the agreement implementing this framework agreement.

Article 2

Scope of application

1. This framework agreement shall apply to the following border area
 - in the French Republic, the Grand-East Region;
 - in the Grand Duchy of Luxembourg.

(...)

Article 4

Cooperation agreement

1. For the application of this framework agreement, the two Parties shall designate in the implementation agreement referred to in Article 3 the authorities or institutions which may conclude cooperation agreements in the field of competence which they hold under the domestic law applicable to them.
 2. These agreements shall organize cooperation between structures, health resources and emergency services located in the border area, having a base there or forming part of a network operating in that area. To this end, they may provide for complementarities between existing structures, health resources and emergency services, as well as the creation of cooperation bodies or joint structures, depending on the deficits and needs observed in terms of health care supply.
 3. The cooperation agreements may relate in particular to the following areas:
 - cross-border intervention by health professionals;
 - the organization of emergency assistance and medical transport of patients;
- (...)
4. These agreements provide for the conditions and compulsory procedures for the intervention of health care structures, emergency services, social security organizations, health care professionals and emergency service agents, as well as for the care of patients. These conditions and modalities are listed in article 2 of the administrative arrangement, depending on the material field concerned.

In all cases, cooperation agreements shall specify:

- the material, territorial and personal fields to which the agreement applies;
- the duration and the conditions of termination of the cooperation agreement;
- the mechanisms for the financial coverage of expenses, the rates and reimbursements of the services covered by the cooperation agreement, in accordance with the domestic law of the Parties.

APPLICATION AGREEMENT CONCERNING THE IMPLEMENTATION OF THE
FRAMEWORK AGREEMENT BETWEEN THE GOVERNMENT OF THE FRENCH

REPUBLIC AND THE GOVERNMENT OF THE GRAND DUCHY OF LUXEMBOURG ON CROSS-BORDER HEALTH COOPERATION

Article 1

Competent persons and bodies

In application of paragraph 1 of Article 4 of the framework agreement, the following persons and authorities are empowered to conclude cooperation agreements in the health sector, including for health emergency services

1 - For France, within the framework of their respective competences in accordance with the national law in force, the Agence régionale de santé Grand Est (ARS), the Caisse primaire d'assurance maladie (CPAM) de la Moselle as the referent CPAM for this border area as well as, the prefect of the defense and security zone and the prefects of the departments;

2 - For Luxembourg, within the framework of their respective competencies, the ministries responsible for health, emergency services and social security, as well as the Caisse nationale de santé.

INTERNAL/DOMESTIC LAW

FRANCE

Health care institutions are governed by articles L6111-1 to L6163-10 of the Public Health Code, Official gazette of the French Republic n°0022 of 27 January 2016

Cooperation agreements between health care institutions: Article L6134-1 of the Public Health Code, Official gazette of the French Republic n°0022 of 27 January 2016

Within the framework of the missions entrusted to them and under the conditions defined by regulation, public or private not-for-profit health care establishments may participate in cooperative actions, including international ones, with persons governed by public and private law. In order to carry out these activities, they may sign agreements, participate in public interest groups, economic interest groups or health cooperation groups, or form inter-hospital medical federations.

For international cooperation activities, public or private not-for-profit health care institutions may also sign agreements with public and private law entities, in compliance with the international commitments entered into by the French State.

LUXEMBOURG LAW OF 27 MARCH 2018 ON THE ORGANIZATION OF CIVIL SECURITY AND THE CREATION OF A GRAND-DUCAL FIRE AND RESCUE SERVICE

Official gazette of the Grand Duchy of Luxembourg, n° A221, version applicable from 01/01/2023

Chapter II The Grand-Ducal Fire and Rescue Service

Section 1: Legal status, missions and headquarters

Article 3

A Grand-Ducal Fire and Rescue Service is hereby established as a public administrative institution, responsible for the organization and implementation of fire and rescue missions in the country as defined in article 4.

The CGDIS is placed under the supervision of the Minister.

The CGDIS has legal personality and enjoys financial and administrative autonomy.

The CGDIS is subrogated to the rights and obligations of the State in the administration of the emergency services.

The transfer of management powers to the CGDIS as provided for by this law entails the transfer of the civil liability of the State and the communes for damage resulting from the exercise of these powers, with the exception of damage incurred by the State during civil protection and humanitarian missions outside the territory of the Grand Duchy of Luxembourg by order of the Government. The liability of the communes remains, however, likely to be engaged, as soon as the damage in question is wholly or partly due to a fault committed by the communal authorities in the exercise of their powers. However, in the event that the damage results in whole or in part from the fault of an agent or from the malfunctioning of the CGDIS, the liability of the latter shall be reduced accordingly.

The headquarters of the CGDIS is in Luxembourg.

Art. 4.

The mission of the CGDIS is to plan, implement and organize:

(a) the rescue of persons who are victims of vital distress, accidents, calamitous events, disasters, catastrophes and fires, transportation by ambulance dispatched by the Central Emergency Rescue Service to an emergency department of a hospital center participating in the on-call service, as referred to in Article 4, paragraph 6 of the Act of March 8, 2018 on hospital facilities and hospital planning;

b) fire prevention, protection and control;

c) the fight against nuclear, radiological, biological and chemical pollution;

d) measures to safeguard property, including the environment and cultural heritage, in the event of calamities, disasters, accidents, fires, floods, etc;

e) the international assistance of rescue services outside the territory of the Grand Duchy of Luxembourg in case of calamitous events;

f) the provision of rescue services during demonstrations or events involving a particular risk

g) training in fire-fighting and rescue;

h) the Emergency Medical Service, abbreviated to EMS.

The CGDIS operates the Fire and Rescue Service on behalf of the airfield operator.

The CGDIS contributes to the assessment and prevention of technological or natural risks, to the management of national crises, as well as to emergency rescue. It is in charge of operational relations with civil security organizations at the cross-border, interregional, European and international levels.

Under no circumstances can the CGDIS be entrusted with missions of maintaining public order or guarding.

V. Other relevant aspects to this case if relevant

Duplicable good practice/benchmark (France)

In France, since March 17, 2021, the SDIS of Moselle and Meurthe-et-Moselle have linked their operational management systems by harmonizing their software.

In order to further improve the cooperation of the 2 structures and the commitment of the rescue services, the two fire and rescue services have purchased and implemented 2 identical operational management systems before linking them.

Thanks to this innovation, each of the two Call Processing Centers (CTA) is now able to trigger the emergency services of the neighboring department without having to transfer the call to the other department.

This harmonization also makes it possible to secure the 2 operational centers, one being the backup of the other in case of technical failure for example, but also to be able to lend a hand to its neighbor in case of an influx of calls 18, within the framework of a weather episode for example. This is the first step towards NexSIS, the future alert and rescue management system, common to all fire and rescue services in France, which will take over in the future.