



TEMPLATE: FINAL REPORT BY THE EXPERT

**ADVICE CASE TITLE: LEGALISE BORDER CROSSINGS FOR
FRENCH-SPANISH RESCUE SERVICES**

**FULL OFFICIAL NAME OF THE ADVISED ENTITY: SERVICE
DEPARTAMENTAL D'INCENDIE ET DE SECOURS DES PYRENEES
ATLANTIQUES**

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I.- EXECUTIVE SUMMARY

Between 2018-2021, the entities with competences in planning, coordination and management of prevention, fire fighting and rescue services in the regions of Aragon, Navarre and the province of Gipuzkoa (Spain) and the province of Pyrénées-Atlantiques (France), have developed the cross-border cooperation project ALERT, financed by the Interreg-Poctefa programme, in the field of civil protection and emergencies.

Aimed at anticipating and combating cross-border risks to people, property and the environment, the project has not been fully completed due to three main obstacles: a) The different organisation of civil protection models in France and Spain, with the participation of state, regional and local authorities intervening according to territorial criteria and technical criteria linked to the evolution of disasters and the need for additional technical and human resources. b) A regulatory framework on rescue assistance, in the French-Spanish border area, which is insufficient and in need of development with regard to the management of daily and specific risks and c) A regulatory framework for cross-border cooperation which does not offer instruments appropriate to different organisational realities, to the management of local services by territorial entities.

The possible solutions to resolve the identified obstacles are of 3 types: a) Legal solutions to modify the legal texts that limit cooperation or to complete them, in particular, the Bayonne treaty on cross-border cooperation and the Administrative arrangement on assistance and emergency aid in border areas respectively between France and Spain. b) Administrative solutions to make cross-border cooperation go beyond the implementation of specific projects in favor of a stable framework for meeting and institutional and technical collaboration between competent entities c) Other solutions focused on the signing of a Memorandum of Understanding to support a road map of the objectives and actions of cooperation between prevention, firefighting and rescue services.

II. DESCRIPTION OF THE OBSTACLE WITH INDICATION OF THE LEGAL/ADMINISTRATIVE PROVISIONS CAUSING THE OBSTACLE

Between 2018-2021, the entities with competences in planning, coordination and management of prevention, fire fighting and rescue services in the regions of Aragon, Navarre and the province of Gipuzkoa (Spain) and the province of Pyrénées-Atlantiques (France), have developed the cross-border cooperation project ALERT (hereinafter the Project), financed by the Interreg-Poctefa programme, in the field of civil protection and emergencies.

The project, which aims to anticipate and combat cross-border risks to people, property and the environment, has several objectives:

- Rationalise and pool resources of emergency services on both sides of the border.
- To have a joint coordination tool between emergency services on both sides of the border.
- To reconcile the means and operational methodologies of the emergency services.
- Interconnecting emergency call platforms
- Developing operational communication tools
- Exchange expertise and knowledge between emergency services.
- Develop joint training and exercises among emergency services personnel.

According to the promoters of the project, all of the planned actions have not been completed, mainly due to the limitations encountered at the border crossing for prevention, firefighting and rescue services, when carrying out manoeuvres or daily intervention at the border and the insufficient visibility and knowledge of the regulatory framework applicable to emergency interventions located in areas close to the border.

The project promoters have requested legal assistance from the B-solutions Programme, in order to have complementary information and legal solutions that will allow them to submit an application to the Interreg VI-Spain-France-Andorra Programme 2021-2027¹ and make progress in achieving the aforementioned objectives.

In order to prepare this report, in addition to analysing the applicable regulatory framework, meetings and contacts were held with the promoters of the ALERT Project and with various public administrations responsible for civil protection and security in France and Spain. As a result of this work, the following obstacles have been identified and are described below:

¹The document "Preparation of the Interreg VI Spain-France-Andorra territorial cooperation programme" includes as a priority "Preventing and managing the risks of natural disasters in a cross-border cooperation perspective" based on the recognition that the regions located on the border between France and Spain have a medium to high environmental sensitivity to climate change with a risk of natural events of varying magnitude up to the level of disasters.

2.1.- CIVIL SECURITY AND PROTECTION: FROM STATE COMPETENCE TO THE DIFFERENT TERRITORIAL AND ORGANISATIONAL MODEL OF FIRE AND RESCUE SERVICES.

The objective of the security and civil protection area, in which the Project is included, is to protect people and property against threats or disasters of different natures. In France and Spain, they are the responsibility of the States and all public administrations contribute to their implementation through various cooperation and coordination mechanisms.

In general terms, the main differences between the two countries lie in the different territorial organisation and coordination of the civil protection system involving fire prevention, fire fighting and rescue services. In France, it is organised at the territorial level of the province and the defence and security zones under the control and coordination of the State, and in Spain, it is organised at the level of the Autonomous Communities (regions) with the State intervening in the coordination of the national system and in disasters of national scale.

2.1.1. TERRITORIAL ORGANISATION CIVIL PROTECTION SYSTEMS

In France, security is a fundamental right and one of the conditions for the exercise of individual and collective freedoms. It is the duty of the State to guarantee security, on the territory, by ensuring the defence of institutions and national interests, respect for the law, the maintenance of public order and the protection of property and persons. Thus, civil security contributes to the general protection of the population, together with public security and civil defence in the terms legally foreseen.

In the field of civil security², the State associates local authorities and public establishments for inter-municipal cooperation, within the framework of local mechanisms, as well as representatives of professions, services and associations working to help victims³.

The missions of civil security concern the prevention of risks of all kinds, the information and warning of the population, and the protection of people, animals, property and the environment against accidents, catastrophes and disasters, through the preparation and implementation of appropriate measures and means which are the responsibility of the State, local authorities and other public or private persons.⁴

The State is the guarantor of national civil security coherence. It defines the doctrine and coordinates its resources. It constantly assesses the state of risk preparedness and ensures the implementation of information and warning measures for the population.

Civil security missions are mainly carried out by professional and volunteer firefighters and volunteers of the fire and rescue services, as well as by the

² Regulated by provisions of the Code de Sécurité Intérieure.(CSI)

³L111-1 Code Sécurité Intérieure

⁴ Article L-112-1 CSI

personnel of State services and military units that are permanently vested with this task and other armed forces and local authorities and public or private establishments and bodies with missions relating to the protection of the population or the maintenance of the continuity of national life.⁵

The administrative organisation of civil security is based on the *prefets*⁶ of the *departements* (provinces)⁷ and of the defence and security zones⁸, which are responsible for leading and coordinating the internal security system as a whole and the action of the various State services.

The fire and rescue services are made up of departmental, territorial and local services governed by the General Code of Territorial Entities (CGCT) and other fire services⁹. In the border area between France and Spain, the organisation of the fire and rescue services is made up entirely of departmental services, SDIS, which manage civil security missions.

In terms of prevention, the territorial contract is the response to risks and potential effects of hazards (CoTRRiM) integrates a multi-sectoral approach to crisis management preparedness. The inventory of the risks and potential effects of hazards of all types defines the objectives to be achieved and lists all the capacities of public and private actors to meet these objectives. Territorial contracts for response to risks and potential effects of hazards are drawn up and reviewed at departmental and zonal level, under the authority of the State representative¹⁰.

Operational planning in crisis situations, which are of a specific scale or nature, is the subject of an Orsec plan¹¹ approved by the *prefet* in each department and defence zone¹². The plan sets out the conditions for the coordination of rescue operations, the mobilisation of resources and their use by management. It also includes specific intervention plans that provide for the adoption of measures and resources necessary to deal with risks of a particular nature or related to the existence and operation of certain types of installations.¹³

The authority responsible for directing rescue operations depends on the scale and territorial impact of the accidents, disasters or catastrophes to be dealt with and the resource requirements. It is the responsibility of the competent police authority, which may be the mayor¹⁴, the *prefet* of the department¹⁵, the *prefet* of the defence and security zone, or the minister in the event of a national

⁵Article L-721-2 CSI

⁶ Government representative

⁷ Five French departments border the Spanish border: Pyrénées Atlantiques, Hautes Pyrenées, Ariège, Haute Garone, Pyrénées Orientals.

⁸ It is an administrative circumscription of the organisation of national security and civil and economic defence regulated by the provisions of the Code de defence and the Code de sécurité intérieure. The French border with Spain is included in 2 defence and security zones, the south-western zone, which includes the Nouvelle Aquitaine region, and the southern zone, which includes the regions of Corsica, Occitanie, Provence-Alpes-Côte d'Azur and Provence-Alpes-Côte d'Azur.

⁹ Article L722-1 CSI

¹⁰ Article L 116-2 CSI

¹¹ Articles L741-1 to L741-5 CSI

¹² When the disaster affects at least two departments of at least the defence and security zone or makes it necessary to make means available that go beyond the departmental territory

¹³ Article L 741-6 L742-1 to L742-15

¹⁴ The Mayor has police powers in the exercise of public security missions, subject to exceptions.

¹⁵ Article L 115-1CSI

disaster¹⁶ . The operations directorate mobilises the public (State, local authorities, public establishments) and private resources necessary for rescue and activates the Orsec plan¹⁷ .

In Spain, the State is also exclusively responsible for national security, understood as the action aimed at protecting the freedom, rights and well-being of citizens, guaranteeing the defence of the country and its constitutional principles and values, as well as contributing, together with partners and allies, to international security in compliance with the commitments undertaken.¹⁸

In civil protection matters, the State is responsible for the regulation and establishment of the National Civil Protection System, which integrates the civil protection activity of all Public Administrations, within the scope of their competences, in order to guarantee a coordinated and efficient response. Thus, civil protection is configured as the public service that protects people and property, guaranteeing an adequate response to the different types of emergencies and disasters caused by natural causes or derived from human action, whether accidental or intentional.

The National System, within the scope of competences of the different public administrations, guarantees the permanent availability of an integrated system, regulated by Law 17/2015 on civil protection, which is governed by the principles of collaboration, cooperation, coordination, inter-territorial solidarity, subsidiarity, efficiency, participation, inclusion and universal accessibility for people with disabilities. It acts through 4 types of actions: prevention, planning, intervention and recovery. For the purposes of this report, the first 3 are of interest:

- Prevention, at the state level, is articulated around the National Civil Protection Information Network and the National Civil Protection Alert Network¹⁹ .
- The planning²⁰ is articulated via civil protection plans as instruments for forecasting the organic-functional framework and the mechanisms for mobilising the human and material resources necessary for the protection of people and goods in the event of an emergency and a coordination scheme between intervening public administrations. Worthy of note are the basic regulation²¹ , the General State Plan²² , the regional or local territorial plans²³ , the special state and regional plans²⁴ and the self-protection plans.
- Immediate intervention is organised on the basis of public services for intervention and assistance in civil protection emergencies, which include, among others, the technical services for civil protection and emergencies

¹⁶ Article L 112-2

¹⁷ Article L742-1 - L742-7

¹⁸Article 149.1.2.2 Constitution and Law 36/2015 on national security

¹⁹ Managed by Centro Nacional de Seguimiento y Coordinación de Emergencias de Protección Civil.

²⁰ Article 13-15

²¹ It establishes the basic guidelines for the identification of emergency risks and actions for their integrated management, the minimum content and general criteria for the preparation of Civil Protection Plans, and the development by the bodies of the implementation activities necessary for their adequate effectiveness (Royal Decree 407/1992).

²²It develops the organisation and action procedures of the General State Administration to provide support and assistance to other Public Administrations in cases of civil protection emergencies, as well as to exercise the direction and coordination of all Public Administrations in emergencies declared to be of national interest.

²³To deal with the emergency risks that may arise in the territory of an Autonomous Community or Local Authority

²⁴ To cope with certain risks such as floods, earthquakes, forest fires, accidents in installations or processes in which chemical, biological, nuclear or radioactive substances are used or stored ..etc.

of all public administrations, the services for prevention, fire extinction, forest fires and rescue, the Security Forces and Corps, the Emergency Health Care Services, the Armed Forces, the emergency coordination bodies of the autonomous communities.²⁵

At the level of operational intervention in emergencies, the State's action focuses, on the one hand, on cases of emergency of national interest, where the Ministry of the Interior has directive and coordination powers, and, on the other hand, on the duty of collaboration of all the Administrations that have mobilisable resources. Thus, the State places at the disposal of the Autonomous Communities and Local Entities the human and material resources it has at its disposal for civil protection.

The State is also responsible for the coordination and communication of actions within the framework of the European Civil Protection Mechanism and the agreements signed with other States²⁶.

Within the framework of territorial organisation, the Autonomous Communities exercise competences in civil protection and emergencies. The Project is developed in 3 Autonomous Communities, the Basque Country, Navarre and Aragon, which have their own civil protection regulations²⁷. These autonomous regulations:

- It organises and regulates the regional civil protection systems without detriment to state regulations.
- Defines the powers of the Autonomous Communities to: a) Draw up the Risk Map and risk catalogues, which identify and locate the different risks existing in the autonomous territory, and mobilisable resources b) Approve general provisions on civil protection and set prevention and self-prevention policy guidelines and c) Approve the Territorial Civil Protection Plan, the special and specific plans within the scope of the Autonomous Community^{28 29 30}. These plans are activated for emergency situations in the territorial scope of the Autonomous Community that, due to their nature, extension or the need to coordinate more than one administration, require regional management. The guidelines and requirements of these regional plans must be observed by other civil protection plans at a lower territorial level (provincial, local).
- The competent authorities of the Autonomous Communities are responsible for the management and coordination of the competent authorities in situations of serious collective risks, catastrophes or public calamity, as well as in other cases of urgencies or emergencies that can

²⁵ Articles 16-19 Law 17/2015 on civil protection

²⁶ Through the National Centre for Monitoring and Coordination of Civil Protection Emergencies of the Directorate General for Civil Protection and Emergencies of the Ministry of the Interior.

²⁷ Ley Foral 8/2005 civil protection and emergency response (Navarra), Ley 30/2002 civil protection and emergency response and Decreto 307/2015 (Aragón), Decreto legislativo 1/2017 emergency law (País Vasco).

²⁸ In Navarre, Territorial Civil Protection Plan of Navarre and special plans for forest fires, seismic risks and floods.

²⁹ In Aragon, Territorial Civil Protection Plan and special plans for flood risk, forest fires, earthquakes, freight transport accidents, radiological risk and risks of accidents in gas and oil pipelines.

³⁰ In the Basque Country, Territorial Civil Protection Plan and special plans for flood risks, forest fires, coastlines, earthquakes, radiological risk, transport of dangerous goods, aeronautical emergencies, chemical-severe risks.

be responded to with the different personal and material resources of the Community. In the event of the evolution of the emergency, the nature of the risk or the availability of the resources to be mobilised make it advisable to activate a higher-level civil protection plan, the authority exercising such functions in the higher-level plan shall be responsible for the management and coordination of the actions.

- The Autonomous Communities manage the Community emergency management centre, for the reception of emergency calls³¹ (SOS 112) and for the operational coordination of the services of other public administrations.
- Public administrations and public entities whose activity is directly or indirectly related to the material provision of assistance in emergency situations are part of the public emergency system and are obliged to comply with legal obligations and the corresponding operational protocols. Among the services affected are the existing fire brigade or fire prevention and extinguishing services (local, regional, provincial).
- The Autonomous Communities may sign cooperation agreements with neighbouring Autonomous Communities in anticipation of emergency situations that may occur in neighbouring areas and which, due to their small scale, are not declared to be of national interest.

2.1.2.- THE DIFFERENT LEGAL NATURE OF FIRE PREVENTION, FIREFIGHTING AND RESCUE SERVICES

In the civil protection systems of France and Spain, fire prevention, fire fighting and rescue services functions are defined by law. Although the main functions by the fire services are similar, apart from a few specific features, there are significant differences in terms of organisation and their legal nature.

Thus, in France, the organisation of fire and rescue services is territorialised at the department (province) level. In each province, there is a fire and rescue service (SDIS)³², organised as a territorial public establishment, administrative in nature, with financial and administrative capacity, which carries out legally established missions of interest.³³

The SDIS is an atypical legal entity because, at the operational level, it is subject to the control of the préfet or mayor as the police authority³⁴ and, at the administrative level, to the Board of Directors, made up of representatives of territorial entities³⁵ (province, municipalities cooperation bodies and

³¹ SOS 112 centres for the reception of calls for help from the population in the Autonomous Community and their management by the public services responsible for emergency health care, fire fighting and rescue, public safety and civil protection and others that may be required depending on the nature of the emergency, regardless of the public administration on which they depend.

³² Without prejudice to specialised services attached to special status areas such as Corsica, Alsace or services cohabiting with military services.

³³ Articles L 1424 -1-99 GCTC

³⁴ Article L1424-3 GCTC

³⁵ This share results from the financial contribution of the local authorities to the SDIS for the exercise of fire and rescue powers.

municipalities). This current organisational configuration of the public fire services is the result of the evolution of the municipal and cooperation municipal fire services³⁶ until their territorialisation around the SDIS. Legally, the SDIS are not groupings of local authorities.³⁷

The competencies of the SDIS are defined in the provisions relating to local public services, of the General Code of Territorial Collectivities (CGCT), and correspond to them:

- Prevention and assessment of civil protection risks
- Preparing safeguard measures and organising emergency resources
- The protection of people, animals, property and the environment
- Emergency assistance and care for people, as well as their evacuation

The operational and administrative activity of SDIS falls under various provisions of the Provincial Risk Analysis and Coverage Scheme (SDACR)³⁸ which establishes the risk map and the risk coverage objectives and the operational regulation (RO) which defines the organisation of the rescue operations command.³⁹

In the Autonomous Communities of interest to the Project, the regulation of fire prevention, extinction and rescue services includes different provisions on local government and civil protection.

On the one hand, the municipalities are given responsibility for civil protection, fire prevention and firefighting and municipalities with more than 20,000 inhabitants are obliged to provide civil protection, fire prevention and firefighting services^{40,41}. These municipalities can develop cooperation formulas or request a waiver. For the rest of the municipalities, the provincial or regional entities⁴² guarantee the provision of the service.

On the other hand, the provisions on civil protection give the municipalities the powers to: a) draw up and implement the civil protection policy by approving the municipal territorial civil protection plan, the self-protection plans, b) update the catalogue of mobilisable resources and the risk inventory and c) create a municipal civil protection structure. The mayor is the highest municipal authority for civil protection, who in emergency situations within the municipality, assumes the direction and coordination of the rescue and assistance services, and reports the situation to the competent regional bodies through the Emergency Coordination Centre.

³⁶ Local public fire and rescue services are municipal or supra-municipal fire brigades L 1224-1 CGCT.

³⁷ Regulated by Article L5111-1 CGCT

³⁸ Articles L 1424-7 CGCT), L731-2 CSI. It is a strategic tool that is part of a political vision, which is transferred to the financial agreement between the SDIS and the Conseil departemental and investment plans external to the SDACR.

³⁹ Article L-124-4 CSI

⁴⁰ Article 25.2.f), 26 1c) law 7/1985 on the local basis regime

⁴¹ The Autonomous Communities are competent for the organisation of local government. Ley Foral 6/1990 de la Administración Local de Navarra, Ley 7/1999, de 9 de abril, de Administración Local de Aragón, Ley 2/2016 de Instituciones locales de Euskadi

⁴² The Foral Law 6/1990 on local administration of Navarre

The regional regulations also define the coordination mechanisms⁴³ and the legal-organisational regime of the fire prevention, fire fighting and rescue services, regulating matters such as functions, personnel, professional regime, financing, principles of action and sanctioning regime.⁴⁴

Among the functions entrusted to the fire prevention, extinguishing and rescue services are, by way of example and not exhaustively,⁴⁵ :

- Fire prevention and extinguishing activities, protection and rescue of people and goods in all types of disasters and risk situations.
- Study and research in the field of fire protection and rescue systems and techniques.
- Intervene in civil protection operations, in accordance with the provisions of the relevant civil protection plans and operational protocols.
- Participate in the development of emergency plans.
- Investigation and reporting on the causes, development and damage of accidents and, in particular, to comply with the requirements of the competent authority.
- Carry out information and training activities for citizens on prevention and action in the event of an incident
- Emergency medical transfers with own allocated means

Finally, the organisation of fire prevention, fire fighting and rescue services differs between the Autonomous Communities of Aragon, Navarre and the Basque Country. Thus, in Navarre⁴⁶ the Government of Navarre provides the fire prevention, fire fighting and rescue service throughout the territory of the Autonomous Community.

In the Basque Country, it is the responsibility of the Provincial Council of Gipuzkoa, the governing body of the historical territory of Gipuzkoa, to subsidiarily guarantee the extension of the coverage of the provision of fire prevention, extinguishing and rescue services in the province⁴⁷.

In Aragon, in addition to the municipalities, the comarcas⁴⁸ are responsible for civil protection⁴⁹ with the presidents being the highest authority. Until 2020, the 4 comarcas of Aragon, bordering France⁵⁰ have exercised the competences of

⁴³Coordination is expressed through different measures, such as the regulatory development of services, the homogenisation of technical means and resources or the provision of emergency management resources.

⁴⁴ Ley Foral 8/2005, de 1 de julio, de 1 de julio, de protección civil y atención de emergencias de Navarra (Articles 45-69). Decreto Legislativo 1/2017 Protección civil de País Vasco (Articles 44-79), Ley 1/2013 de Regulación y Coordinación de los Servicios de Prevención, Extinción de Incendios y Salvamento de Aragón (Articles 44-79), Ley 1/2013 de Regulación y Coordinación de los Servicios de Prevención, Extinción de Incendios y Salvamento de Aragón (Articles 44-79).

⁴⁵ By the different functions attributed in the Autonomous Communities

⁴⁶ It is a Uniprovincial Autonomous Community that assumes the competences legally attributed to the provincial councils (Article 40 of Law 7/1985 regulating the Bases of the Local Regime).

⁴⁷ Law 27/1983 on relations between the common institutions of the Autonomous Community and the foral bodies of its Historical Territories (Articles 7 c) 4) and 8.3). The County Council approves the catalogue of mobilisable resources as well as the creation, organisation and maintenance of fire prevention, firefighting and rescue services.

⁴⁸ Supra-municipal administrative territorial delimitation

⁴⁹ Legislative Decree 1/2006, which approves the revised text of the Law of Regionalisation of Aragon (article 9.1.17) and Law 1/2013, of 7 March, on the Regulation and Coordination of Fire Prevention, Fire Fighting and Rescue Services of Aragon (article 50).

⁵⁰ La Ribagorda, Sobrarbe, la Jacentania and Alto Gállego

prevention, fire extinction and rescue. From 2021, this competence will be exercised by the Huesca County Council through the provincial fire service.⁵¹

It follows from these considerations that while the Spanish fire prevention, firefighting and rescue services of the ALERT project are public services attached to territorial entities, in particular to the Government of the Autonomous Community of Navarre and to the Provincial Councils of Gipuzkoa and Huesca, the French fire prevention, firefighting and rescue services constitute a legal person under public law. These differences regarding the legal nature of the fire prevention, fire fighting and rescue services constitute a significant legal obstacle when it comes to developing cross-border cooperation actions within the scope of their competences.

The objective of security and civil protection is to protect people and property against threats or catastrophes of different natures. In France and Spain, they are the responsibility of the States and all public administrations contribute to their implementation through various cooperation and coordination mechanisms.

Fire prevention, firefighting and rescue services are part of civil protection systems, organised territorially in different models. In France, around territorial public establishments in the province acting under the control and coordination of the State (Prefet de province or zone de défense et de sécurité). In Spain, around the systems of the Autonomous Communities and municipal competence, with State intervention in the coordination of the national system and in disasters on a national scale.

The different legal nature of the ALERT project's fire prevention, firefighting and rescue services limits the scope of cross-border cooperation actions.

⁵¹ Law 7/1999, of 9 April, on Local Administration of Aragon (articles 65-71).

2.2.-BILATERAL COOPERATION IN CIVIL PROTECTION AND CIVIL SECURITY AND THE LIMITATIONS OF CROSS-BORDER COOPERATION

Since the 1980s, civil protection at the European level has been a matter of cooperation between Member States. It is understood in terms of solidarity and aimed at increasing the capacity to react to crisis situations arising from disasters whose importance could exceed the intervention capacity of the Member State concerned. The adoption of the Lisbon Treaty gave legal support to European intervention in the support and coordination of Member States' civil protection systems, and the creation of the EU Civil Protection Mechanism E⁵²

The European Mechanism applies to cooperation both at the level of prevention and preparedness actions when requested by a Member State, in the field of training and promotion and exchange of knowledge and experience of the European network and actions to help cope with the adverse consequences of a disaster, following a request for assistance⁵³.

In this context, as in other EU border areas, Spain and France have signed the Perpignan Convention on civil protection and security of 11 October 2001. The purpose of this Convention is to cooperate on the anticipation and prevention of serious technological risks, the training of civil protection and security officers and mutual assistance in the event of disasters or serious accidents which may occur on the territory of the two countries.

The Perpignan Convention regulates the areas of collaboration, the procedures and conditions for requesting, implementing and directing assistance, as well as the conditions for crossing the border, the use of aircraft and the financing of actions.

With regard to cooperation in border areas, the agreement contains several provisions of interest to the project, which are developed below.

2.3.1.- A CROSS-BORDER INCOMPLETE LEGAL FRAMEWORK

The Perpignan Convention refers to the conclusion of administrative arrangements, the implementation of aspects of mutual assistance in the event of disasters or serious accidents⁵⁴ and the **specific modalities of rescue operations carried out in the immediate vicinity of the border**. This last provision is set out in the **Administrative Arrangement of 20 February 2017⁵⁵ on emergency assistance and aid in border areas**.

⁵² Decision 1313/2013/EU, as amended by Regulation EU 2021/836

⁵³ The Emergency Response Coordination Centre managed by the Commission coordinates, monitors and supports real-time emergency response at Union level.

⁵⁴ Agreement between the Government of the Kingdom of Spain and the Government of the French Republic on the use of aerial means of extinguishing in the event of mutual assistance in the event of forest fires, done at Malaga on 20 February 2017

⁵⁵ Between the Minister of the Interior of the Kingdom of Spain (Directorate-General for Civil Protection and Emergencies) and the Minister of the Interior of the French Republic (Directorate-General for Civil Security and Crisis Management).

Following the model of other European borders, the Administrative Arrangement aims to **define and organise the implementation of operations related to the management of emergency assistance** in the border area, delimited by the French and Spanish provinces⁵⁶.

Various provisions of the Administrative Arrangement are relevant to the Project:

- a) Article 14(2) of the Perpignan Convention excludes the day-to-day management of rescue in the immediate border area from the application of the provisions of Articles 6-14 concerning the request, materialisation and conduct of assistance operations, as well as the conditions of border crossing, entry and exit of assistance materials, use of aircraft and supply of assistance equipment and advance request procedures.

The Administrative Agreement makes a distinction between everyday risks and specific risks in terms of scope or scale and the services involved. On the one hand, **everyday risks** correspond to fire prevention and firefighting interventions, rescue and rescue of persons in distress and miscellaneous operations⁵⁷, dealt with by the emergency services of the French departments or the emergency services located in the territorial scope of the autonomous communities bordering the border⁵⁸.

In addition, in the event of a forest fire originating on one side of the border and extending beyond it, the administrative agreement establishes that the joint intervention of French and Spanish emergency teams may be carried out in a 25km strip on both sides of the border. In other words, it introduces a specificity with respect to the provincial territorial scope of the agreement.

In addition, the Administrative Arrangement defines interventions in the event of **occasional risks**⁵⁹ *in which the organisation of emergency assistance requires a significant mobilisation of material and human resources and is part of a crisis situation*⁶⁰. In these cases, in France, the services of the national resources of the Directorate-General for Civil Security and Crisis Management and the departmental fire-fighting and emergency aid services are involved and, in Spain, the fire-fighting services of the neighbouring autonomous communities and the state-owned emergency services mobilised by the Spanish Directorate-General for Civil Protection and Emergencies.

Article 5 of the Administrative Arrangement includes provisions on the authority competent to request assistance, the availability and

⁵⁶ Article 1

⁵⁷ Article 2.1

⁵⁸ Article 3.1

⁵⁹ Hazards with 2 characteristics; a) a low and hardly foreseeable probability of occurrence and b) with particularly serious consequences, such as a significant number of victims and/or significant material damage and/or significant effects on the environment.

⁶⁰ Crisis situations of a) activation of plans b) *intervention and coordination of most of the decentralised services of the State and local authorities on the French side or of the services with competence in the territorial area of the Autonomous Community concerned on the Spanish side, (c) the involvement of local resources by the French Party and of resources other than those in the territory of the Autonomous Community concerned by the Spanish Party, as well as national and international resources*

dependence of the requested party's means on the authority of the head of the requesting party's operations, the reporting obligation and the identification of operational contact points for sending requests for assistance and coordinating the handling of incoming requests.

With regard to the application of these provisions, it is significant that the Administrative Arrangement does not establish a differentiated regime between the interventions to be carried out in the face of everyday risks and occasional risks. Nor does it use the normative referral to complete or clarify aspects relating to the management of ordinary risks.

In other European border areas, the regulation of the day-to-day management of rescue by fire services is governed by different legal frameworks, such as good neighbour agreements between border municipalities, local implementation agreements⁶¹ or administrative agreements on cross-border cooperation⁶².

These legal instruments differentiate between two types of interventions: a) those that are carried out jointly, following receipt of the alert and communication between the operational centres and the consequent deployment of the closest resources adapted to the situation, and b) those interventions with a request for reinforcement of resources depending on the scale of the incident. In both cases, cross-border protocols for alerting and intervention by the rescue services and the provision of the structural, technical and training resources necessary for effective cooperation are envisaged.

In view of these comparative references and the exclusion of Article 14.2 of the Convention, it can be concluded that the provisions of Article 5 of the agreement are applicable to interventions in the face of everyday and occasional risks, with one exception: the application of the procedure for requesting assistance from the préfet, in France, or the subdelegate of the government, in Spain, in the interventions of the daily management of rescue⁶³. In these cases, without express regulation, the emergency services on both sides of the border intervene jointly, after receiving the emergency alert and informing the operational centres on both sides.

In addition, Articles 5, 6, 7 of the administrative agreement refer the development of certain operational and administrative aspects to the conclusion of various agreements, and in particular:

- The competent authorities may agree to carry out the necessary pre-survey operations in the intervention area to allow for the smooth conduct of future emergency assistance missions and the development of specific contingency plans necessary for the implementation of emergency assistance operations (Article 5.4).

⁶¹ Mutual assistance agreement between the Governor of the Province of Luxembourg and the Prefet of Meuse

⁶² Administrative Arrangement on Cross-Border Fire and Rescue Cooperation between France and Italy of 6 February 2006

⁶³ Article 5.1, 5.2

The administrative arrangement does not establish the competent authorities, so that reference must be made in each case to the allocation of responsibilities for the preparation, planning and management of fire and rescue services.

The forecast on the preparation of specific or special intervention plans refers to specific risk situations (floods, earthquakes, forest fires, accidents in chemical, biological, nuclear or radioactive installations, etc.) which require specific warning measures, the intervention of specialised technical means and a level of communication with the population.

- The French and Spanish emergency services will enter into financial agreements to cover the cost of interventions. These agreements are subject to the opinion of the Joint Committee of the Administrative Agreement (Article 6.1).
- The préfets of the departments or defence and security zones of the French zone and the subdelegates of the Spanish zone may conclude local implementation agreements for the application of the provisions of the Administrative Arrangement (Article 7).

The wording of the provision highlights two aspects: a) on the one hand, the interest in developing local agreements in response to the specificities of the different geographical border areas, in terms of organisation and identification of risks (natural, technological, etc.). And b) the use of the term "may" does not make the conclusion of local implementation arrangements a necessary condition for the effective implementation of the Administrative Arrangement. However, they obviously help to clarify and fill in the gaps in the Administrative Arrangement by facilitating cooperation between the competent bodies.

Various border areas between France, Belgium, Italy, Luxembourg, Germany and Switzerland have local agreements in place to define different aspects of risk information, the carrying out of operations or the financing of interventions.

From the statement of the provisions of the 2017 Administrative Arrangement, it is concluded:

- The wording of the Administrative Arrangement does not provide a comprehensive and differentiated regulation of day-to-day and ad hoc risk management in border areas.
- The multiplicity of actors involved with associated competencies in the planning, coordination and management of services on both sides of the

border makes it difficult to coordinate and develop cross-border cooperation.

- The development of the Administrative Arrangement has not been deployed at the level of local implementation arrangements. This situation, according to the conversations held with the different entities concerned, is the result of 4 main factors: a) the lack of knowledge of the competent entities and emergency services of the regulatory framework b) the failure to integrate the cross-border aspect in planning and intervention protocols c) the definition of procedures inappropriate to the needs of intervention in emergency situations d) prioritisation of the principle of local/regional self-sufficiency due to limitations in human and budgetary resources.

In conclusion, with the exception of cooperation projects such as ALERT financed with European funds, cross-border cooperation in civil protection is not, for the time being, a perceived priority. This situation is not specific to the French-Spanish border, but has been occurring for some time now in other European border regions, albeit with some differences⁶⁴.

The Administrative Arrangement of 20 February 2017 on assistance and emergency aid in border areas does not provide a sufficient regulatory framework for the cooperation of the competent entities for fire prevention, firefighting and rescue. It does not regulate day-to-day risk management and refers to subsequent agreements on different aspects, not yet developed by the competent authorities.

2.3.2.- BORDER CROSSING OBSTACLES FOR THE DAILY MANAGEMENT OF THE RESCUE

The Agreement between France and Spain excludes⁶⁵ interventions, carried out in the daily management of rescue, from the application because its objective is cooperation between States in situations of disasters or serious accidents that require the reinforcement of additional and/or specific means.

In practice, this exclusion does not prevent the fire and rescue services of Gipuzkoa, Navarre and Huesca from finding it difficult to cross the border crossing to intervene in the event of a fire.

⁶⁴Compétence et coopération transfrontalières des services d'incendie et de secours dans le cadre européen. Ecole nationale Supérieure des Officiers de Sapeurs Pompiers, juin 2010

⁶⁵ Article 14(2)

It is therefore necessary to analyse whether this obstacle has a legal basis or whether it is due to other circumstances such as insufficient knowledge or incorrect application of the rules.

Under the provisions of the Treaty on the Functioning of the European Union on policies on border controls, asylum and immigration⁶⁶, Regulation (EU) 2016/399 of 9 March 2016 (Schengen Borders Code)⁶⁷, enshrines the principle of free movement and the absence of border checks for persons, whatever their nationality. This general principle does not imply the elimination of certain controls provided for in national law⁶⁸. One of these exceptions is the possibility for a Member State to impose in its national law an obligation to hold or carry documents⁶⁹.

In addition, the reintroduction of internal border controls by Member States, either at specific parts of the border or at the entire border, is foreseen in cases of serious threat to public policy or internal security. Such reintroduction is of a temporary nature⁷⁰.

Annex VII of the Regulation (EU) 2016/399 concerning Specific Rules for certain categories of persons includes in point 7 the Services of fire brigades and refers to national law the provisions for the entry and exit of members of fire brigades acting in emergency situations.

Bilateral legal instruments and other domestic legal provisions must be considered when analysing national law. Thus,

The Convention on Civil Protection and Civil Security of 11 October 2001 and the Administrative Arrangement on Emergency Assistance and Rescue in Border Areas of 20 February 2017 define the conditions of border crossing for fire services depending on the scope of the intervention, i.e. whether it is in the day-to-day management of rescue or in the management of one-off risks in crisis situations. Thus:

- Crossing the border for the purpose of carrying out interventions in the daily management of the rescue operation is not subject, by virtue of Article 14(2) of the Convention, to the conditions provided for in Article 9 of the Convention. This Article requires the members of the rescue team to carry a valid travel document and the person in charge of the rescue team to carry a document⁷¹ certifying the rescue mission, the type of unit and the number of persons involved.

The Administrative arrangement does not establish any provisions on border crossing conditions for the ordinary management of relief, where the procedure for requesting prior assistance does not apply. Therefore, communication and coordination between operational centres is sufficient,

⁶⁶Article 77 et seq.

⁶⁷It establishes a Union Code on the rules governing the crossing of persons at internal and external borders.

⁶⁸Among them, Article 23 covers controls on the exercise of police powers, infrastructure safety inspections, the obligation to carry documents.

⁶⁹Article 23 (c).

⁷⁰As set out in Articles 25-32 of Regulation 2016/399

⁷¹Issued by the authority responsible for the rescue team

resulting in a joint intervention, based on criteria such as proximity and availability of technical and human resources.

- In relation to the crossing of the border in cases of mutual assistance in the management of specific or occasional risks, the Administrative arrangement foresees the procedure for requesting prior assistance and the written notification, by any means, of the affirmative response, informing of the personnel and type of material, the time and needs of arrival. No provision regulates whether this information must be additionally carried by the intervention services. By analogy with Article 9 of the Convention, it is understood that it would be appropriate for the person in charge of the fire services to carry this documentation.

In French domestic law, there are regulatory provisions⁷² which make the intervention of the fire and rescue services, outside the provincial area, subject to the decision of the préfet or area préfet. There are several exceptions to this condition⁷³. In the case of fire and rescue services operating outside the national territory for the benefit of a foreign state, the Code Sécurité Intérieure refers to the provisions of bilateral or international conventions, without prejudice to cooperation agreements between French and foreign territorial authorities within the scope of their competences and with regard to international commitments⁷⁴.

In Spanish national law, no equivalent provisions are known in relation to the fire prevention, fire fighting and rescue services within the scope of the ALERT Project (Autonomous Communities of the Basque Country, Navarre, Aragon).

In the absence of cross-border cooperation agreements between territorial entities, and in application of the constitutional principle of the superiority of treaties over domestic rules and the integration of agreements into domestic law⁷⁵, the conditions for border crossing by members of the French and Spanish fire and rescue services of the ALERT project, in interventions in the border area are governed, in interventions involving everyday and particular risks, by the provisions of the Perpignan Convention of 2001 and the Administrative Agreement of 2017.

There is no legal basis, under the Perpignan Convention and the Administrative Arrangement, for preventing or limiting the crossing of the border for fire and rescue services in daily rescue interventions, once the emergency operational centres on both sides of the border have been informed.

⁷²Item R1412-47CGCT

⁷³ In particular, the implementation of agreements with other departments, and in the event of accidents and disasters whose consequences may exceed the limits and capacities of a department, or in the event of activation of the orsec plan.

⁷⁴ Article R 1424-50 CGCT

⁷⁵ Article 55 French Constitution and Article 96 Spanish Constitution

The border crossing of the fire and rescue services in the management of specific risks is conditional upon compliance with the procedure for requesting assistance and acceptance in the terms foreseen and the carrying of documentation on the personnel and type of material.

2.3.3.- THE INAPPLICABILITY OF THE LEGAL FRAMEWORK FOR CROSS-BORDER COOPERATION IN FIRE PREVENTION, FIREFIGHTING AND RESCUE SERVICES

The provisions of the Convention on civil protection and security⁷⁶ do not prevent local authorities or their centres of public activity from concluding cooperation agreements within the framework and limits set by the Convention on cross-border cooperation between local authorities of 10 March 1995.

The 1980 European Framework Convention on Cross-border Cooperation between territorial communities or authorities aims to promote cross-border cooperation in view of the importance it can have in areas such as environmental protection, improvement of infrastructure and services for citizens and mutual assistance in the event of disasters.

For the 1980 Convention, cross-border co-operation includes *any concerted action aimed at strengthening and developing neighbourly relations between territorial communities or authorities belonging to two or more Contracting Parties, as well as the conclusion of agreements and appropriate arrangements to that end. Cross-border co-operation shall be exercised within the framework of the competences of the territorial communities or authorities as defined in domestic law. The extent and nature of such competences shall not be affected by this Convention.*

For the purposes of the Framework Convention, *"territorial communities or authorities" means communities or authorities or bodies which exercise local or regional functions and which are regarded as such under the domestic law of each State⁷⁷. Each State may, when drawing up the Convention, designate the communities, authorities or bodies, as well as the matters and forms to which it intends to limit the scope of application of this Convention or which it wishes to exclude from its scope.*

The purpose of the Treaty of Bayonne between France and Spain, based on the Framework Convention, is to facilitate and promote cross-border cooperation between French and Spanish territorial authorities in compliance with the domestic law and international commitments of each of the Contracting Parties and, in particular, with due regard for the competences of the territorial authorities as recognised in domestic law.

⁷⁶ Article 17(2)

⁷⁷ Article 2.2

Cross-border cooperation between local and regional authorities takes the form of agreements designed to make it possible, in areas of common interest, to create and manage public facilities or services and to coordinate their decisions. These agreements may provide for the creation of cooperation bodies or participation in existing bodies, whether or not they have legal personality, under the conditions laid down by the Treaty.

The Treaty of Bayonne designates as territorial entities those listed in Article 2⁷⁸. In other words, the Treaty, with regard to the Framework Convention, restricts the category of entities entitled to carry out cross-border cooperation actions to territorial entities. Excluding those public law entities that intervene in the management of local public services.

The Convention's reference to the Bayonne Treaty is part of the attribution of powers and the intervention of the different territorial administrations in civil protection matters. However, the presentation of the territorial models of civil protection in Spain and France has revealed significant differences.

Thus, in relation to the scope of the ALERT Project, on the Spanish side, different territorial entities are competent in civil protection prevention, coordination and intervention. Three Autonomous Communities (Basque Country, Navarre, Aragon) and two supra-municipal entities (Provincial Councils of Gipuzkoa and Huesca). On the French side, there is no counterpart of territorial entities, but the civil protection competences are exercised by the *prefet* of the Pyrénées-Atlantiques or the Southwest defence zone and the departmental service of prevention, fire extinction and rescue of the Pyrénées-Atlantiques (hereinafter SDIS 64).

The SDIS 64 is a public law body whose Board of Directors is made up of representatives of the Department of Pyrénées-Atlantiques and other municipal cooperation bodies⁷⁹ which contribute financially to the management of fire and rescue services, in accordance with multiannual agreements.⁸⁰ This is an atypical legal formulation, expressly excluded from the categories of local authorities or groupings of local authorities⁸¹ provided for in the Bayonne Treaty. SDIS 64 is therefore not authorised to conclude cross-border cooperation agreements under the conditions laid down in the Bayonne Treaty.

The use of the term "centres of public activity" in Article 17 of the Convention in relation to the conclusion of agreements within the limits of the Bayonne Treaty is also limited. Thus, public activity centres, whether or not they have legal personality, cannot by themselves conclude cooperation agreements.

With regard to a cross-border cooperation agreement signed between local authorities, the public activity centres dependent on them may only intervene by

⁷⁸ On the Spanish side: The Autonomous Communities of the Basque Country, Navarre, Aragon and Catalonia, as well as the Historical Territories, the provinces and the municipalities belonging to the four Autonomous Communities indicated. Likewise, and provided that it includes municipalities of the above, it includes the *comarcas* or other entities grouping several municipalities, instituted by the aforementioned Autonomous Communities and the metropolitan areas and associations of municipalities created in accordance with the legislation of the Local Regime. And on the French side: The Nouvelle Aquitaine and Occitanie regions, following the approval of the law on the new French territorial organisation of 2015, as well as the Departments, the municipalities and their groupings included in the territory of the aforementioned regions.

⁷⁹ Articles L1424-1 to L1424-99 GCCT

⁸⁰ Article L 1424-35. The following shall be mandatory expenditure for the participating local authorities

⁸¹ Circulaire du 20 avril 2001 sur la coopération décentralisée des collectivités territoriales françaises et de leurs groupements avec des collectivités territoriales étrangères et leurs groupements

applying and executing its provisions. Under no circumstances may they sign cross-border cooperation agreements.

The exclusion of SDIS 64 from the scope of application of the Bayonne Treaty does not mean that it cannot develop a cross-border or international activity. The 2001 circular on decentralised cooperation states that these bodies excluded from cross-border cooperation may be authorised to carry out international action by virtue of a treaty, a law or their statutory provisions.

In conclusion, the reference in the Perpignan Convention to the conclusion of agreements between territorial entities or their centres of public activity within the framework and limits of the Bayonne Treaty has no legal effectiveness in the current organisational model of the SDIS for the management of fire and rescue services. Neither in the province of Pyrénées Atlantiques nor in the other French provinces bordering Spain.

Consequently, cross-border cooperation between the local authorities and the SDIS 64 in the field of fire prevention, fire management and rescue in the border area has no legal basis in the Bayonne Treaty.

In addition, there are other legal instruments for cross-border cooperation between France and Spain, which are worth mentioning. One of these is the European Grouping of Territorial Cooperation, regulated by Regulation 1082/2006 and aimed at overcoming the obstacles to territorial cooperation and establishing a cooperation instrument on a European scale.

The interest of this legal form is that it allows the participation of different public law entities, among others, Member States, national authorities, regional authorities and public law bodies⁸² located on the territory of at least two Member States. The EGTC, which is an entity with legal personality, which acts within the limits of the functions entrusted to it, is an avenue to be considered, in the current state of the legal instruments of cross-border cooperation between Spain and France.

Thus, the EGTC is currently the only legal figure in the field of cross-border cooperation that would allow the conclusion of an agreement and the creation of a cooperation structure with legal personality between the promoters of the ALERT Project, i.e. the local authorities and the Sdis64, including State bodies, in relation to the competences they have been entrusted with in the field of fire prevention, extinction and rescue.

Finally, one aspect of interest, in view of the limitations of the legal framework for cross-border cooperation for project promoters, is whether they could enter into agreements of a different nature. For example, in the framework of the implementation of the Administrative Agreement, in a situation of absence of local implementation agreements or when the agreements have been adopted

In international law, the Memorandum of Understanding (hereinafter MOU) is considered a soft-law cooperation instrument, because it does not legally bind

⁸² In relation to Directive 2014/24/EU of 26 February 2014 on public procurement,

the signatory parties. There are several examples of its use in the field of mutual assistance in areas other than civil protection, which have been used in preparation, experimentation or negotiation processes, while awaiting an appropriate legal or political framework for further cooperation.

In Spanish law, non-normative international agreements are a regulated formulation designed to contain declarations of intent or to establish commitments for action of a political, technical or logistical nature. They do not constitute a source of international obligations and are not governed by international law. They can be signed by the State, Autonomous Communities, local entities and other public law entities with organs, bodies, entities, administrations and personifications of other subjects of international law in matters within their competence and are not legally binding for those who sign them.⁸³

In general terms, it is an agreement that contains declarations of intent by the signatory parties on a common objective, sets out their general principles of action and constitutes a framework for guiding their collaborative relations in matters of mutual interest.

The origin of these agreements may respond to different circumstances such as the interest or need to achieve a strategic objective, the desire to establish a general framework of stable cooperation with an institution or organisation with which a relationship of mutual trust has been maintained and with which certain joint projects or activities have already been carried out, or the express utility for both parties of opening a channel of collaboration for a specific and mutually advantageous purpose.

In practice, these agreements are used in various fields for exchanges of experts, joint cooperation projects, organisation of working days and bilateral cooperation meetings, consultations as well as the organisation of meetings and forums, etc.

In France the use of Memorandum of Understanding (MoU) by public administrations and other public law entities is a well-known practice in the framework of international action⁸⁴. In the field of cooperation with local and regional authorities, the use of Memorandum of Understanding for local and regional authorities is not advisable in principle, unless the foreign authority has no other means of concluding agreements.⁸⁵

In conclusion, possible agreements between entities of different legal nature, but with competences in the prevention, planning and management of fire and rescue services, under the Administrative Arrangement and with the limitations of the

⁸³Article 11.4 of Law 2/2014 of 25 March 2014 on State Action and Foreign Service (Article 11.4) and Law 25/2014 on Treaties and other International Agreements (Articles 2c, 43-48, 53).

⁸⁴ Some examples with public entities. a) Paris Memorandum of Understanding on Port State Control, 1982 b) The agreement on the procedure for the cross acceptance of locomotives, multiple units and passenger trains was signed between the *Etablissement public de sécurité ferroviaire* (EPSF) and the *Federal Railway Authority* (EBA) 2008, c) Memorandum of Understanding (MoU) between Scotland's floating wind cluster DeepWind and Wind'Occ d) The memorandum of understanding (MOU) between The Natural Sciences and Engineering Research Council of Canada (NSERC) and the French National Centre for Scientific Research (CNRS) and investigate new opportunities for cutting-edge research and training activities between both organisations. d) Memorandum of Understanding with Santé publique France to establish a WHO FCTC Knowledge Hub (Education, communication, training and public awareness).

⁸⁵Guide juridique de l'action extérieure des collectivités territoriales, 2019

Bayonne Treaty, could have recourse to the legal instrument of the Memorandum of Understanding.

In conclusion, the framework of cross-border cooperation between France and Spain does not offer the promoters of the ALERT project a legal framework adapted to the development of cooperation agreements. The main reason for this is the different model of territorialisation of fire and rescue services in France and Spain. Alternatively, operational solutions are found in the form of the EGTC, which entails the creation of a new person under public law and the conclusion of Memoranda of Understanding, which are not legally binding.

The Bayonne Treaty on cross-border cooperation between France and Spain does not offer the promoters of the ALERT project a legal framework adapted to the development of cooperation agreements. Therefore, the Perpignan Convention's referral in the field of security and civil protection is not applicable to cooperation between the competent bodies for the management of prevention, fire fighting and rescue services, i.e. the Provincial Councils of Gipuzkoa, Huesca, the Government of Navarre and the SDIS 64.

The obstacle lies in the Bayonne Treaty's limitation of cross-border cooperation to local and regional authorities. The legal alternatives to cooperation between Spanish regional and local authorities and French public law entities within the scope of their competences are centred on the European Grouping of Territorial Cooperation, regulated by Regulation 1082/2006 and the Memoranda of Understanding. Solutions of different nature and legal effects.

To resolve this obstacle, from a legal point of view, an amendment to the Treaty of Bayonne would be required to enable other public law bodies, which are not local authorities, to sign cross-border cooperation agreements. This amendment would ensure that the coexistence of different models of territorial organisation between France and Spain in the management of local public services does not in itself constitute an obstacle to the development of cross-border cooperation. This legal proposal is based on the Karlsruhe Agreement on cross-border cooperation between territorial authorities and local public bodies between France, Germany, Luxembourg and Switzerland of 23 January 1996

III. DESCRIPTION OF POSSIBLE SOLUTION(S)

The description of the ALERT Project's obstacles in the field of cross-border cooperation between fire and rescue services has revealed their different nature, and proposals for possible solutions require a variety of measures, which are set out below.

3.1.-SOLUTIONS OF A LEGAL NATURE

At the legal level, two measures are necessary to resolve the legal obstacles identified.

- a) The insufficient regulation of emergency assistance and aid in border areas between France and Spain in the 2017 Administrative Agreement needs to be completed with the approval of local implementing agreements. The objective of these projects is the definition of aspects not included, the identification of local competent entities and development of other aspects of financial, operational or administrative character.**

Within the scope of the ALERT project, the local implementation agreements should cover the following areas: Pyrénées Atlantiques/Gipuzkoa, Pyrénées Atlantiques/Navarre and Pyrénées Atlantiques/Huesca.

The competent authorities for their subscription with the Prefet of the Pyrénées Atlantiques department and of the Nouvelle Aquitaine zone and the delegate of the Community of Navarre and the subdelegates of the provinces of Gipuzkoa, Huesca.

- b) The framework of cross-border cooperation between France and Spain does not take into account the reality of the different administrative models in the management of local and regional competences and their evolution over the last 25 years. Civil protection and fire prevention, fire-fighting and rescue services are a case in point.**

It is necessary to include public law entities, which manage local and regional public services, in the scope of application of the cross-border cooperation of the Bayonne Treaty. This possibility, provided for in the Framework Convention on cross-border cooperation, already has a legal reference, at the bilateral level, in the Karlsruhe Agreement. And at the European level, in the EGTC for cross-border, trans-European and interregional cooperation.

3.2. SOLUTIONS OF ADMINISTRATIVE NATURE

In the current state of cooperation in the field of civil protection, the development of cross-border cooperation requires the creation of a stable framework between the competent civil protection bodies.

Civil protection is a subject that integrates a multiplicity of actors (services belonging to different public administrations) depending on the type and scale of risks and the actions to be carried out (prevention, planning, coordination, intervention). For this reason, based on ALERT's experience, as a first step, in order to advance towards greater concertation and cooperation between competent entities at different territorial levels, the creation of a Forum or Platform is proposed, initially focused on the planning, coordination and intervention of emergency prevention, fire fighting and rescue services.

The participation of multi-level entities in the forum, i.e. local, regional and national authorities or their territorial representatives, is a condition for a proper integration of the division of competences of civil protection models on both sides of the border.

The cross-border Forum or Platform could act as a driver and promoter for:

- a) To lay the foundations for a stable framework of cooperation between the competent public administrations and the fire and rescue services.
- b) Formulate proposals and initiatives to prevent and coordinate responses to risks at the border level.
- c) Formulate proposals for the development and improvement of the cross-border regulatory framework
- d) Carrying out cross-border projects financed by Interreg and disseminating best practices on the French-Spanish border.

The Forum could integrate a political and a technical level, around a concertation that promotes the objectives of cross-border cooperation and working groups that develop actions at the operational level (e.g. intervention protocols, training, manoeuvres, etc.).

The meeting and work forum, initially without legal personality, could legally evolve towards the constitution of an EGTC depending on the commitment, common objectives and level of cooperation assumed by the parties at the level of ordinary and specific risk management.

3.3.- OTHER SOLUTIONS

Pending the conclusion and legal effectiveness of the local implementation agreements, It is proposed to advance and strengthen cooperation between the competent authorities for prevention, planning, coordination and intervention in the field of ALERT on the basis of the signing of a Memorandum of Understanding, by virtue of the Administrative

Agreement, which defines actions to be transferred and incorporated in each organisation, through operational practices and protocols. This type of agreement does not produce a legal binding, but it facilitates the culture of cooperation and helps to improve operational coordination until the current legal framework evolves. Some examples of actions, in relation to ALERT's objectives, are as follows

- Mapping cross-border risks
- Map the technical and human resources assigned to the border area.
- Incorporation into the SOS 112 and CTA64 call centres, communication and transfer of emergencies received in the border areas and annual monitoring of the scope.
- Identify means of communication between services
- Organise training and plan the implementation of manoeuvres.
- Develop a manual of day-to-day and ad occasional risk management conditions and procedures at the border.

IV. A FULL LIST OF ALL LEGAL PROVISIONS RELEVANT TO THE CASE WITH THE CORRECT CITATION BOTH IN ORIGINAL LANGUAGE AND IN ENGLISH

The following is a list of the French and Spanish legal provisions analysed in this report, which constitute a legal obstacle to the ALERT project.

- Treaty on transfrontier cooperation between territorial communities. Signed at Bayonne on 10 March 1995, United Nations Treaty Collection No. 33640

Traité relatif à la coopération transfrontalière entre collectivités territoriales. Signé à Bayonne le 10 mars 1995, Nations Unies Collection des Traités No. 33640

- Treaty between the French Republic and the Kingdom of Spain on civil protection and security. Signed at Perpignan on October 11, 2001, United Nations Treaty No.39485

Traité entre la République française et le royaume d'Espagne en matière de protection et de sécurité civiles. Signé pa Perpignan, Nations Unies Collection des Traités No. 39485

- Administrative agreement between the Minister of the Interior of the Kingdom of Spain (Directorate General of Civil Protection and Emergencies) and the Minister of the Interior of the French Republic (Directorate General of Civil Security and Crisis Management) on assistance and emergency aid of border áreas. Signed at Malaga on February 20, 2017. Spanish Official Law Gazette No. 61 of 15 March 2017

Acuerdo administrativo entre el Ministerio de Interior del Reino de España(Dirección General de Protección Civil y Emergencias) y el Ministro del Interior de la República Francesa (Dirección General de Seguridad Civil y Gestión de Crisis) sobre asistencia y ayuda de emergencia en zonas fronterizas, hecho en Malaga, el 20 de febrero de 2017. Bolefin Oficial del Estado No. 61, 15 March 2017

V. OTHER RELEVANT ASPECTS TO THIS CASE IF RELEVANTS

VI. REFERENCES AND APPENDIX/APPENDICES IF ANY

In the preparation of this report, meetings and/or contacts have been held with various entities competent in civil protection, which are sincerely thanked for their collaboration.

- SDIS 64, Directeur départemental, Colonel Alain Boulou
- SDIS 64, Directrice adjointe, Colonelle Cecile Macarez
- SDIS 64, Service transfrontalier, Lieutenant Colonel, Joseph Bonson
- SDIS 64, Administration et Finances, Sandra Labede
- SDIS 64, administration and finance, Cristine Arnedo
- SDIS 64, Stagiaire, Coopération Transfrontalière, Carla Barrail
- Conseil General Pyrénées Atlantiques, Chargé mission coopération transfrontalière, Julien Latour
- Government of Navarre, Director General Interior, Maria Amaparo Lopez Antelo
- Government of Navarre, Director of Civil Protection, Jose Javier Boulandier Herrera
- Government of Navarre, Director of the Fire Service, Pedro Zaro Loperena
- Government of Navarre, Head of the Prevention, Inspection and Dissemination Section of the Fire Service, Crescencio Alaez Aller
- Government of Aragon, Director Geographic Institute IGEAR, Fernando Lopez Martin
- Gobierno de Aragón, Head of Security and Civil Protection Service, Miguel Angel Clavero
- Provincial Council of Gipuzkoa, Director General for Fire Prevention, Fire Fighting and Rescue, Josu Idigoras Egia
- Government of the Basque Country, Director of Emergency Attention and Meteorology, Ricardo Ituarte
- Government of the Basque Country, Emergency Service, Gaizka Etxabe,
- Government of Spain, Subdelegate in Gipuzkoa, Guillermo Echenique
- Ministry of the Interior, Directorate General for Civil Protection and Emergencies, International Relations Coordinator, Cristina Marugán Güemez
- Prefecture des Pyrénées Atlantiques, Secretariat général aux affaires départementales, Nathalie Patenôte