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REPORT BY THE EXPERT

Advice case title: Public services and cross-border mobility

Thematic Area: Public services (cross-border mobility)

Full official name of the advised entity: Municipality of Ventimiglia

Name of the expert contracted for the advice case: Prof. Michele Vellano

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I. Executive summary

Every day, about 5,000 residents of the Ventimiglia basin travel to neighboring France for work (cross-border commuting), and a similar number of people come from Menton and French Riviera to visit Ventimiglia for "proximity tourism" during the tourist season. The geographical contiguity of the two urban basins affected by these substantial mobility flows confronts them with the same problems, which are particularly acute during the time of year that coincides with the summer tourist season (June, July and August).

The littoral and contiguous municipal territories are as follows: on the Italian side, Ventimiglia (about 23,000 inhabitants) and, on the French side, Menton (about 29,000 inhabitants). In fact, the two littoral municipalities are, in turn, closely connected with

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inland municipalities, respectively, for Ventimiglia, with those located along the course of the Roja and Nervia rivers and, as far as Menton is concerned, with those, mainly, of Sospel, Breil-sur-Roya and Tende. The territory of the municipality of Tende, as will be discussed in more detail below, although reachable, even by roads in French-only territories, is much more easily accessible (especially by means more cumbersome than a simple car), via a road that starts from Ventimiglia and goes up the Roja Valley to then pass into French territory, after the municipality of Airole, and, again, into Italian territory after the Tende pass. The map shown in Appendix sub 1, gives a sufficiently clear picture of the specific geographical and urban context just described above.

The current territorial arrangement, with regard to the part of the hinterland described, was designed following the entry into force of the peace treaty between France and Italy signed in Paris on 10.2.1947 with the cession to France of the territories of Tenda and Briga. The objective and growing interconnection, on an economic, social and mobility level, between the populations residing in these territories has suggested to the competent territorial administrations to consider the opportunity to establish an EGTC (European Grouping of Territorial Cooperation), which is currently being studied and which could in the future assume competencies precisely in the field of management of local road transport services. In this regard, while it is clear that, on the French side, the municipalities currently federated in the Communauté d'Agglomération de la Rivière Française¹ - (henceforth, CARF) would be involved, it is still doubtful which municipalities, on the Italian side, would be called upon to take part in the future EGTC.

As reported in the legal aid application, the town of Ventimiglia faces a serious shortage of public services and cross-border mobility, as connections with neighboring France are still inadequate and insufficient and it is worth reporting in detail hereafter:

- the local public road transport service operated by Riviera Trasporti S.p.a. (hereinafter, Riviera Trasporti) ends at the border with France;
- the port of Ventimiglia no longer has a "ferry service" for border crossers linking it to the port of Mentone and/or port of Monaco;
- the rail-station of Ventimiglia, following the abolition of the "Thello" trains, no longer has Italian local trains crossing the border, to the serious detriment of commuters and tourists;
- the French rail service is considered inadequate in terms of supply and fares, leading to an increase in road traffic, congestion and pollution;
- the isolation of the Valle Roja due to the prolonged work on the international pass, which will be made even more difficult by the floods in 2020 and 2024, and the serious inefficiency of rail transport.

The current complex and problematic connection framework depends on a plurality of objective factors: (a) the morphological characteristics of the territories involved; (b) historical events (in the case, of the territory of the upper Roja Valley); (c) the exponential increase in cross-border tourism (in the case of the coastal stretch involving Menton and Ventimiglia); (d) heterogeneous and occasional factors that

¹ There are fifteen French municipalities that are members of CARF: Beausoleil; Breil-sur-Roya; Castellar; Castillon; Fontan; Gorbio; La Brigue; La Turbie; Menton; Moulinet; Roquebrune-Cap-Martin; Sainte-Agnès; Saorge; Sospel and Tende. The community comprises about 75,000 inhabitants.

result in the reintroduction of border controls (in the case, of the main accesses of communication between the two States); and, finally, (d) technical factors, such as that of different types of electrification of the railway lines of the two States from which the use of different traction units follows (in the case of access by rail).

In addition to these objective difficulties, there are legal obstacles arising from the existence of two different national legal systems that rarely take into account the specificity of cross-border interactions.

A preliminary on-site meeting with the Administrations of, respectively, the Municipality of Ventimiglia and CARF (the latter has been fully associated with this project) revealed a strong and mutual willingness to collaborate in order to solve or, at least mitigate, mobility problems regarding, in particular, regular public service by road and possible shuttle service by sea. The third area of mobility, that by rail, although it constitutes a relevant means of transportation is in fact taken away from the availability of the Municipality of Ventimiglia and CARF, falling entirely within the availability of the entities managing the rail networks and, more specifically, on the French side, SNCF and, on the Italian side, Rete Ferroviaria Italiana of the Ferrovie dello Stato Group. In addition to the latter circumstance, there is the one, of a purely technical nature, concerning the indispensable infrastructural investments needed to make possible the mutual transit of Italian and French railcars on the affected section of the cross-border railway line. The related work will not be completed before 2030². These circumstances led to the choice (shared with the Ventimiglia Municipality Administration and CARF) to focus this report on the possibility, in the meantime, of improving mobility by road (currently existing at least in part) and, possibly, making mobility by sea possible (currently completely nonexistent).

The spirit of collaboration between the two Parties referred to earlier, currently encounters in fact regulatory and administrative obstacles that limit and, in some cases, prevent its full expression in a transnational and synergic manner. This report addresses, hence, the obstacles in relation to (a) the cross-border regular public road transport service and (b) the cross-border shipping service.

Referring to the thorough reading of the following paragraphs, let us anticipate the essential conclusions of our report:

(a) with reference to the cross-border regular local public transport, the possibility of an agreement between the competent territorial authorities of the two States providing for a cabotage service (i.e. with several stops and frequent crossings), on the territory of both States at the same time, is allowed. In this respect, is envisaged the possibility of transforming the already existing bus line No. 5, linking Menton to Tende via Ventimiglia, into a true cross-border bus line like others already exist in Europe.

(b) with regard to transport by sea, a public or private cabotage service with calls at the territory of both States is already possible and only needs to be authorised by the competent territorial authority of only one of the two States. In this case, there is rather a *de facto* obstacle resulting from the inherent difficulties and economic viability in a

² It should be added that the Cuneo-Tenda-Breil-Ventimiglia railway line, which theoretically could be connected to the Ventimiglia Mentone axis, is currently not electrified and, therefore, the engines run on diesel. In the coming months the rail line will be interrupted for renovation work that can no longer be postponed.

stretch of sea where weather conditions are favourable for only a few months of the year and potential users are not particularly numerous. Rather than a cross-border cabotage ferry line, one could then envisage a tourist-oriented shipping line linking the ports of Menton and Ventimiglia only during the summer period using small boats.

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

II.1 The nature of the obstacle with reference to a cross-border regular public road transport service

The obstacles put forward by the Municipality of Ventimiglia (and by CARF as well), with respect to the full achievement of the objectives set forth in the previous paragraph, are essentially related to the impediment of realizing a cross-border local public service that contemplates, without interruption, stops in relation to a route that starts from Menton and continues in Italian territory to Ventimiglia or, at any rate, to another Italian municipality, rendered in a regular manner, that is, every day and on the basis of frequent and pre-established schedules.

Before addressing this obstacle, it may be useful to provide a brief reconstruction of what the situation currently is with specific reference to this type of transportation within the area in question.

On the French side, local public transport is administered by CARF, through Zest bus, and consists of a plurality of road lines, among which one (line No. 1) arrives and stops border between France and Italy placed at the so-called Pont Saint Ludovic. An exception to this picture, is line No. 25, which has its first terminus in the center of the town of Mentone and travels along the coastal section, crosses the border, continues and arrives in the center of Ventimiglia. On the section of the route from the border to Ventimiglia, the bus makes no stops, and in Ventimiglia it makes only one stop near Piazza Costituente³. The No 25 bus then continues along the road up the Roja Valley and crosses the border between Italy and France again at the Fanghetto bridge to finally reach Tende where the second terminus is located near the rail station. On the contrary, the route from Tende to Menton takes the same route and in the same manner (several stops on French territory and only one stop on Italian territory in Ventimiglia). The map in Appendix sub 2 gives a more precise idea of the route of the No. 25-way Menton - Tende A/R line. Line I took myself on the Ventimiglia Tenda route.

On the Italian side, local public transportation by road is provided by the Riviera Trasporti company and, one bus line (No. 3F) runs along the coastal stretch from Ventimiglia in the direction of Menton and stops at the border. One line runs along the Roja Valley from Ventimiglia to the border to Ponte Fanghetto and back without entering French territory.

³ At the moment, as I was able to verify in person, the stopping place is not signposted by any dedicated pole, thus making its location to any passengers extremely problematic.

The question then needs to be asked whether there is, and what is, the legal obstacle preventing the implementation of one or more regular cross-border lines and/or transforming the existing one (No. 25) so that it covers regular service seamlessly in both French and Italian territory. Most importantly, whether European Union law itself constitutes an obstacle or whether it can be invoked to remove obstacles of a national and/or local nature.

II.2 *The scope of EU law with respect to the obstacles considered*

International bus and coach passenger transport is organically regulated by Regulation (EC) No. 1073/2009 of the European Parliament and of the Council of October 21, 2009, which sets common rules for access to the international market for coach and bus services and amends Regulation (EC) No. 561/2006. The EU legislature does not consider cross-border public passenger transport to be a special transport service and, therefore, the general rules on international passenger transport also apply to it.

The Regulation No. 1073/2009, in the field of international transportation, provides a distinction between:

- (a) Regular services: services that provide passenger transportation at a determined frequency and route, with passengers boarding and disembarking at stops previously established and indicated with appropriate bollards;
- (b) Specialized regular services: services that provide transportation for certain categories of individuals (for example, home-to-school transportation for students or home-to-work transportation for workers);
- (c) Occasional services: services that do not fall under the definitions in (a) and (b) and are, therefore, residual in nature.

In turn, all three categories of service outlined above may or may not perform so-called "cabotage transport": that is, services involving the embarkation and disembarkation of passengers within the territory of the same State, as part of an international transport service.

Regulation No. 1073/2009 enshrines the principle of freedom to provide services, within the territory of the Union, to carriers (whether private or public in nature, for the reasons stated at the beginning of the text). The only necessary requirements for the performance of international transport activity are related to (i) the carrier's fulfilment of the requirements for access to the passenger transport profession, (ii) compliance with the rules applicable to the drivers and vehicles used, and, most importantly, (iii) obtaining an authorization to perform transport services from the competent authority of the carrier's Member State of establishment. If the transportation service is international in nature, Regulation No. 1073/2009 stipulates that the authorization must be issued with the agreement of all States where passenger embarkation and disembarkation take place. The denial of authorization, however, is limited to strict cases concerning circumstances that do not occur frequently.

The rules emerging from Regulation No. 1073/2009, however, take on a more restrictive connotation if the international service involves cabotage transport (i.e.,

services involving the embarkation and disembarkation of passengers within the territory of the same State). According to Article 15 of the Regulation, cabotage transport is prohibited for regular services, carried out by a carrier established in a country other than the one in which the service is carried out (a circumstance that inevitably occurs, if the cabotage service is carried out in two different States), which concerns an urban centre or conurbation and its suburbs. Essentially, the carrier will not be allowed to operate an international service involving (in both States) multiple stops within the same urban agglomeration and its suburbs, and with passages at predetermined and frequent times within the same day. The reason for this prohibition lies in the States' desire to safeguard local public transport from competition from carriers (public or private) based in another member State. This limitation on free competition is commonly seen in the circumstance that local public transport provides a service to the local population that, in many cases is uneconomic on a large part of the routes covered. If one were to allow an alternative service to local service on profitable routes, it would make the operation of the local public service as a whole even more economically unsustainable.

The prohibition just referred to is not absolute, however, because Regulation No. 1073/2009 itself allows for a very specific exception that assumes extreme utility with reference to the case under consideration here. According to Article 25 of Regulation No. 1073/2009, in fact, «Member States may conclude bilateral or multilateral agreements with a view to further liberalizing the services covered by this Regulation, especially as regards the regime of authorizations and the simplification of control documents or the dispensation to produce them, in particular in border regions». This regulatory provision, therefore, allows, by means of a bilateral agreement between States (i.e., between the Authorities delegated to do so), to derogate from the restrictive provisions of the Regulation, further liberalizing the service with regard, in particular, to cabotage, i.e., the possibility of carrying out a regular service (involving stops at recurring and predetermined times) in the territory of two States by a single carrier based in one of the two States.

To complete the reconstruction just made, it is necessary, then, to ask which Authorities, French and Italian sides, if any, are called upon to conclude said bilateral agreements.

French side: as attested by the Authority concerned itself, CARF is the entity with the powers to conclude such an agreement.

Italian side: art. 117 Const. divides competences between the State, regions and local autonomies, enshrining the principle of residual competence attributed to the regions with reference to any matter not expressly reserved for State competence. The list of matters of exclusive State competence or concurrent competence does not include any direct reference to transport (except for "major transport and navigation networks," which are subject to concurrent competence but are not relevant in the present case). While an examination of Article 117 Const. already seems to enshrine regional competence in local public transport, a more relevant element is found in Italian Legislative Decree No. 422 of 1997, which confers functions and tasks on the regions and local authorities in the field of local public transport with the exception of those of national interest, which are expressly provided for in Article 3. The latter include:

«(b) maritime transport services, with the exception of cabotage services that take place predominantly within a region;
(c) automobile transport services of an international character, excluding cross-border services, and interregional lines connecting more than two regions;»

Ultimately, Article 3 of Legislative Decree 422/1997 also gives the regions jurisdiction over international motor transport if it is cross-border in nature.

In the present case, the competence to sign the Agreement lies with the Region of Liguria, which may associate the Province of Imperia and the municipalities affected by the cross-border local public service, to the extent that it sees residual and/or delegated competence on the part of these territorial public bodies, or even just to make them direct participants in the Agreement.

The Agreement in question, because of its content and the nature of the parties called upon to sign it, would not require clearance from the two States (France and Italy) whose Governments should, however, be notified.

II.3 The nature of the obstacle with reference to a cross-border shipping service

The situation with regard to the possibility of establishing a regular shipping service appears to be marked by obstacles of an innately objective nature. Regular transport, that is, practiced on the basis of relatively frequent departures and arrivals and, in any case, every day is, unlike road transport, conditioned by important weather factors that can also make it impracticable or hardly practicable, in certain seasons (typically from October to April). In this regard, it should be premised that the transport would take place from the port of Ventimiglia to that of Menton and vice versa without intermediate landings (because there are no ports or, at any rate, intermediate landings). It would, therefore, be a kind of round-trip shuttle.

To date, there is no publicly accessible service, public or private, that regularly covers by sea the Menton-Ventimiglia route and vice versa. There is only an occasional fast connection between the port of Monaco and that of Ventimiglia available to crews who moor their vessels in the port of Ventimiglia, which, as is well known, is administered by a company controlled by a company based in Monaco.

One wonders, therefore, whether there is a legal/regulatory obstacle to the possible desire to activate a regular service on said route perhaps only during the months most frequented by tourists and with generally more favourable weather conditions (early June to mid-September) in the form of a round-trip Nave bus.

Preliminarily, it should be noted, on the Italian side, that Art. 11, co. I, lett. d), Legislative Decree No. 111 of 2004, reserves to Friuli Venezia Giulia Region and, by analogy, to the other maritime regions the functions relating to maritime transport of a regional or cross-border nature. Therefore, the Region Liguria should, in advance, authorize the Ventimiglia-Menton round-trip shuttle service to the extent that this service is provided by a company with its registered office in Italy. On the French side, the competence for authorization, to the extent that the service is provided by a company headquartered in France, is divided among several territorial authorities under the coordination of

CARF. The willingness of the companies that manage respectively, the port of Ventimiglia and the port of Menton to make available a section of quay/wharf for the docking of vessels so as to allow the safe embarkation and disembarkation of passengers should also be taken into consideration.

II.4 The scope of EU law with respect to the obstacles considered

International maritime transport is regulated by Council Regulation No. 4055/1986 of December 22, 1986, which applies the principle of freedom to provide services to maritime transport between member States and between member States and third countries. The Regulation No. 4055/1986, aimed at a better abatement of obstacles to the free movement of services within the European Union, provides in Article 1 that the freedom to provide maritime transport services is applicable to nationals of Member States established in a Member State different from the one receiving the services (this is a necessary circumstance in the case of international service, involving several States). Nationals established outside the EU and non-EU shipping companies are also included in the scope of the rule if they are controlled by EU nationals.

Thus, the provisions of Regulation No. 4055/1986, which enshrine the freedom to provide maritime transport services, apply whenever all relevant elements of the transport activity are not restricted locally within a single member State. In essence, all shipping companies traceable to European nationals may transport passengers or goods to any port (or offshore facility) within and outside the Union, it not mattering whether the destination is located in a State other than the State of departure. If the service also involves the transport by sea of passengers or goods between ports located in the same member State (so-called maritime cabotage), resulting in the ability to embark and disembark the subjects or goods at two different places but still included within the territory of a single State, the maritime transport service will also be subject to compliance with Council Regulation No. 3577/1992 of December 7, 1992. Maritime cabotage is restricted to European shipowners using vessels registered and flying the flag of a member State. The applicable manning rules are those of the flag State, except for vessels under 650 tons, to which the conditions of the State hosting the service may apply.

There is no requirement to obtain additional authorizations from the host country or the need for specific agreements between the States involved in the service; this circumstance significantly distinguishes maritime cross-border transport from wheeled transport: in the latter, unlike maritime cross-border transport, cabotage is subject, as seen above, to a prohibition that can be overcome only through a bilateral agreement between the States involved in the service, aimed at liberalizing it more.

Furthermore, Article 4 of Regulation No. 3577/1992 provides that «a Member State may conclude public service contracts or impose public service obligations as a condition for the provision of cabotage services, on shipping companies participating in regular services to, from and between islands». The express recognition of the power to impose public service obligations appears to be limited to transport involving islands or additional comparable factual circumstances, i.e., places with direct road

connections that are not excessively problematic. However, it can be considered that even in the absence of an express recognition (the case at hand being in circumstances that do not involve transportation from, to or between islands), the power to impose public obligations on the public transport service concessionaire and to recognize public subsidies in favor of the latter is not to be excluded a priori, but rather remains subject to general regulatory provisions and compliance with the requirements of fairness, proportionality, non-discrimination and the public subsidy ban.

II.5 The instruments available for bilateral cooperation: the opportunities offered by the entry into force of the Quirinal Treaty

As noted in the previous section, the European Union allows Member States to reach agreements on a bilateral basis that facilitate mobility. Indeed, it finances specific projects that pursue this objective.

The case of cooperation between Italy and France in the sector under consideration here is, from this point of view, emblematic. It is a long-standing bilateral cooperation that has already produced and continues to produce excellent results⁴.

Lastly, the Quirinal Treaty, which entered into force on February 1, 2023, is intended to provide, in Article 10, the legal basis for furthering this enhanced bilateral cooperation also in the field of mobility. The rule recalled here clearly has an essentially programmatic vocation but contains references of particular value and significance for the case under consideration. In fact, we read that particular attention is paid by the Contracting Parties to encouraging the mobility.

III. Description of possible solution

III.1 Existing good practices in the European Union with reference to (a) local public transport by road and (b) local public transport by sea

A survey of best practices already implemented within the European Union in border relations inside and outside the borders of its member States brought to light some experiences that can be usefully taken as a reference mainly with regard to local public transport by road and, to a lesser extent, public transport by sea.

(a) With regard to local public road transport

⁴ The roots of current cooperation between Italy and France are deep and go back a long way. At the basis of the cultural exchanges are undoubtedly the geographical proximity of the two countries, the historical events that have on several occasions strongly intertwined their destinies, the not dissimilar territorial, demographic and economic dimensions but, above all, the strong sharing of the ideals. In this regard, please refer to our paper M. VELLANO, *La contribution de l'Union européenne au renforcement de la coopération culturelle franco-italienne*, in *Diritto dell'Unione europea*, 2020, pp. 211-226.

Examples of good practices are not lacking. The following are those that seem to us closest to the situation under consideration here and contain some objectively interesting insights.

a. 1 Gorizia (Italy) - Nova Gorica (Slovenia)⁵

Gorica and Nova Gorica are neighbouring twin cities that form a cross-border *Functional Urban Area* (FUA). The cross-border transport service was inaugurated on November 30, 2002 through a cooperation agreement between the public transport operators of Gorizia and Nova Gorica, respectively. In 2011, the two cities defined a joint spatial development strategy to address the different needs and challenges of the functional area. After forming a European Grouping of Territorial Cooperation (EGTC-GO) together with the Municipality of Šempeter-Vrtojba, Gorizia and Nova Gorica undertook several cooperation projects within the Interreg V-A 2014-2020 and, later, VI-A Italy-Slovenia 2021-2027 program. To this end, a draft cross-border urban mobility plan was initiated with the aim of achieving the integration of urban transport networks operating in the area. The result was a preliminary agreement between Friuli-Venezia Giulia (Italy) and Slovenia for a cross-border urban public transport system covering the entire border area between Slovenia and Italy. The related draft Agreement is available as Appendix sub 3 and may provide interesting points also with reference to our specific case.

The cross-border public transport service consists of a single international bus line connecting the city center of Gorica with the city center of Nova Gorica. The service runs along the main road corridor connecting the two cities and does not pass through neighborhoods outside this corridor. The service runs between 8:00 a.m. and 8:00 p.m. and has a frequency of about one trip per hour on weekdays only (almost, 300 days/year), for a total of 20 trips per day. The service is operated on the basis of a special authorization to operate a cross-border bus service between the two cities issued, for the first time in 2002 by the Italy-Slovenia bilateral committee and subsequently renewed and refined.

As previously explained, Regulation No. 1073/2009 allows international bus services only over long distances (intercity, interregional, etc.) and not at the urban level, to prevent foreign operators from overlapping and competing with local public transport operators. However, Regulation No. 1073/2009 offers the possibility to waive these restrictions by allowing cross-border urban services on the basis of bilateral agreements between the administrations concerned: local transport operators have therefore obtained special permission to waive the restrictions of Regulation No. 1073/2009 from the regional administration of Friuli-Venezia Giulia in Italy as well as from Slovenia, in order to operate a cross-border bus service between the two cities. From an operational point of view, the service is based on a joint agreement between the public transport operators of Gorizia and Nova Gorica, which have assumed responsibility for the service; of the 20 daily trips, 10 are made by the Gorizia operator and 10 by the Nova Gorica operator. The Italian transport operator is ATP Gorizia

⁵ M. GATTO, *Study on the Provision of Public Transport in Cross-Border Regions - Mapping Existing Services and Legal Obstacles, Bus Route Gorizia (Italy) - Nova Gorica (Slovenia)*, Contract: 2019CE160AT093, European Commission, 2021, available at https://ec.europa.eu/regional_policy/en/information/publications/studies/2022/.

(Azienda Trasporti Provinciale di Gorizia); the Slovenian operator is NOMAGO Slovenia, a private company that benefits from public subsidies. Service-related revenues are shared equally by the two companies (50/50), while each operator is responsible for its own operating cost. On March 22, 2024, the fifth plenary session of the Friuli-Venezia Giulia Autonomous Region-Republic of Slovenia Joint Committee was held, where the parties expressed their commitment to further "ease administrative burdens and facilitate cross-border mobility of artists and audiences, which will contribute to the fact that the GO!2025 European Capital of Culture cross-border project will be an example of best practices at the EU level."⁶ .

a. 2 Maastricht (Netherlands) - Aachen (Germany)⁷

Bus route No. 350 connects Maastricht (Netherlands) with Aachen (Germany). The bus service runs every 15 minutes on weekdays and twice an hour in the early morning and late evening. On weekends and holidays, runs are less frequent. The bus takes about an hour to connect the main train station in Maastricht and the bus station in Aachen, with 33 stops in between. Line No. 350 is operated by Arriva Netherlands, a company owned by the Dutch national railway company (DB), whose sole shareholder is the Dutch federal government. Arriva Netherlands has operated the line since 2016, thanks to winning a tender for the public transport concession. An agreement concluded with the city of Aachen allows stops within the city and is the basis for the waiver of cabotage restrictions set forth in Regulation No. 1073/2009. The bus route between Maastricht and Aachen is part of a pilot project to demonstrate that route No. 350 does not compete with local bus services in Aachen.

a. 3 Istria Connect (Slovenia) - (Croatia)

The first cross-border free bus line under the pilot project "Istria Connect" co-financed by European funds. This connection facilitated cross-border travel for the population close to the border between Slovenia and Croatia. The bus departs at 6.15 a.m. from Umag station, then stops in Buje, Cالدانيا, Plovania, Castelvenere, Sečovlje, Lucia, Portorož and Izola with the terminus being the Izola Hospital, where arrival is expected around 8 a.m. From here at 2.20 p.m. it will depart in the opposite direction with arrival in Umag at 3.50 p.m. This connection remained in effect until June 30, 2023. The value

⁶ This table also includes the activities and issues referred to in technical sub-tables No. 1 (Cross-border public road transport along the entire border strip) and No. 3 (Extension to the Gorizia railway station of passenger rail connections operated by Slovenian Railways to Nova Gorica), and the activation and development of actions also concerning tariff and information integration with innovative systems, as well as the use of zero- or low-emission vehicles and actions to improve the interchange system. In order to accelerate the implementation activities of cross-border public passenger traffic, the two Parties have agreed on an Operational Agreement that will enable them to continue working effectively in this area. [...] Within the scope of the objectives envisaged by the Operational Agreement, the Parties agree on the establishment of an operational timetable for the restart of the activities of the other sub-tables related to transport issues, starting with the discussion of the topic of public maritime passenger transport in the cross-border area and the initiation of joint actions for the enhancement and increase of services in this area of activity, including the promotion of connecting services to the Croatian cross-border area. Joint statement FVG - Slovenia, March 22, 2024, available at https://www.gov.si/assets/ministrstva/MZEZ/Dokumenti/stiki-z-javnostmi/Dichiarazione-Congiunta-IT-_-V-Comitato-Congiunto-FVG-SLO.cleaned.pdf

⁷ F. HOLSTEIN, *Study on providing public transport in cross-border regions - mapping of existing services and legal obstacles, Bus 350 Maastricht (Netherlands) - Aachen (Germany)*, Contract: 2019CE160AT093, available at https://ec.europa.eu/regional_policy/en/information/publications/studies/2022/providing-public-transport-in-cross-border-regions-mapping-of-existing-services-and-legal-obstacles.

of the project was 470,000 euros of which just under 400,000 was taken from the Interreg Slovenia-Croatia program, referring to the Istria-Connect project. The rest of the amount was covered by the crossed municipalities.

a. 4 Erstein (France) - Lahr (Germany)

The interest in this experience is its implementation within the framework of the Eurodistrict Strasbourg-Ortenau EGTC, proving that a local public road transport line is a natural and coherent component of a territorial aggregation of two or more neighboring municipalities that recognize their mutual belonging to a territorial and economic community regardless of national borders. The management of the bus line was, in this case, entrusted to the EGTC, which was thus able to experiment with completely unique ways of selling tickets and equipping buses with technical equipment.

(b) Regarding local public transport by sea

b. 1 Trieste (Italy) - Mali Lošinj (Croatia)

A virtuous example appears to be the international maritime transport service between the Friuli-Venezia Giulia Region and the neighboring Republics of Slovenia and Croatia. The service has a definite cross-border connotation and was entrusted by means of a public tender issued by the Friuli Region to the company Liberty Lines s.p.a., which operates the service under a service contract, receiving public subsidies from the Friuli-Venezia Giulia Region. The maritime service is exclusively seasonal in nature (June to September), and provides a connection between the resorts of Trieste, Piran, Porec, Rovinj, and Mali Lošinj six days a week and several times during the same day.

b. 2 Pegli (Italy) - Genoa (Italy)

It does not constitute a cross-border example by sea, but it is, in any case, interesting for the purposes considered here the service called *Nave bus* that connects, in less than 30 minutes, Pegli with the heart of Genoa (Porto Antico) thanks to the joint efforts of Azienda Metropolitana Trasporti - AMT, Consorzio Liguria via Mare, the Liguria Region and the Municipality of Genoa. Navebus is the solution to avoid traffic and travel comfortably on a short but busy route. A similar project, but not yet started, considers the possibility of establishing a *Nave bus* between Varazze and the port of Savona and vice versa, again to give an alternative to vehicular traffic on the road.

III.2 The possible solutions with reference to (a) local public transport by road and (b) local public transport by sea

During the legal assistance activity carried out at the offices of the Municipality of Ventimiglia and of offices of CARF, it was possible, thanks to the effective and efficient organizational capacity of the administration in charge, to meet with various representatives of the Authorities interested in being involved in the cross-border collaboration project of transnational mobility. These meetings, with exponents from

both the Italian and French territorial sides, proved extremely useful in focusing on the needs related to the implementation of a solution.

a) local public transport by road

From the reconstruction reported above, it emerges how the legal obstacle to the development of a local cross-border public road line can be overcome through an Agreement concluded, pursuant to Article 25 of Regulation No. 1073/2009, between the public territorial authorities competent in the said field: on the French side, by CARF and, on the Italian side, by the Liguria Region (with the possible involvement of the Province of Imperia and the municipalities whose territory would be crossed by the cross-border bus line). Such an Agreement would be further supported by the provisions contained in the Quirinal Treaty, which are expressly aimed at fostering forms of cooperation between local border authorities aimed at increasing the welfare of the populations residing there. According to Article 10 of the Treaty, the Contracting Parties undertake to «adopt regulatory amendments and submit to their respective parliaments such legislative amendments as may be necessary to remove obstacles to border cooperation, including for the establishment of common public services in social, health, environmental, energy, educational, cultural and transport matters» (emphasis added). Furthermore, again under the same Article 10, the Parties: «shall strive for the increasingly integrated development of a cross-border rail, road and maritime transport network». In the latter regard, it is suggested that contact be made with the Strategic Operational Management Committee of the Quirinal Treaty both for further technical support in the continuation of the cross-border relationship and to give adequate publicity to the project in the annual report of activities carried out within the framework of the Quirinal Treaty. In addition, important opportunities for synergy can be further drawn from the recent approval of the program called *Alcotraité* which is a spin-off of the France-Italy ALCOTRA Program precisely in order to enhance the contribution that can be drawn from the Quirinal Treaty with respect to the territory covered by the ALCOTRA Program (mobility included).

The Agreement in question could contemplate a plurality of bus lines, starting with the coastal route between Menton and Ventimiglia and vice versa. This is by far the busiest section and would realize a practical and credible alternative to mobility by private car or, alternatively, by rail. In particular, an uninterrupted line would remedy the current inconvenience of passengers who, at present, are forced to get off the French bus, cross the border on foot and then wait and, finally, board the Italian bus (i.e., take the same route in the opposite direction). It would also overcome the obstacle of coordinating the arrivals and departures of Italian (line 3F) and French (line 1) buses at the border (timetable coordination that, by the way, is lacking to date).

This Agreement could be concluded specifically or as part of the one, currently under consideration, aimed at establishing, as previously anticipated, a full-fledged EGTC.

There is, however, to consider that there is an even simpler solution than the one just described and one that would be feasible with a minimum of effort and without economic aggravation. As mentioned earlier, there is already an operational cross-border line that departs from Menton, runs the coastal route, stops in Ventimiglia Piazza Costituente, and continues through the Roja Valley to Tenda, where the terminus is located, and then returns along the same route. This is line No. 25 operated by Zestbus, on behalf of CARF. It would be, then, sufficient, to conclude an Agreement,

in the manner previously evoked, that would allow line No. 25 to make stops on Italian territory (in addition to the one already planned in Ventimiglia – Piazza Costituente). That is, three additional stops along the coastline and four along the Valle Roja. Seven stops more in total (obviously in both directions: round trip). As a result of the Agreement, it would be sufficient to indicate at the existing bollards dedicated to the local public service carried out by Riviera trasporti the timetables for the line No. 25. The cost of the ticket currently paid for the entire Menton-Tenda route and amounting to 2 euros (an extremely convenient fare considering the length of the route), would not change (since the route would be identical to the current one) and could be paid in full to Zestbus, on behalf of CARF, with simplified purchase modalities (on board the vehicle with a prepaid or credit card) or via App. Of course, in order to make it effectively attractive, with a view to its regular use, even by Italian users, it would be important to increase, compared to now, the frequency of passages of the bus No. 25, at least in the period (June, July, August) most frequented by tourists as well as residents and why not replace the No. 25 with the name *Cross Border Bus* or *Euro Bus*.

b) local public transport by sea

As it turns out, there is, in fact, no legal obstacle to implementing a shuttle service by sea between Ventimiglia and Menton and vice versa. Especially since a cabotage service would not be practiced on the territory of one or both of the States involved. It would, therefore, be sufficient to issue an authorization to a private operator to carry out the route in question, subject to the need for the latter to also obtain authorization to dock in the ports of Ventimiglia and Menton, respectively. The Municipality of Ventimiglia, in agreement with and/or at the behest of the Region of Liguria, could, alternatively, consider the possibility of calling a public tender contemplating the operation of the route in question for a certain number of years and compete for the purchase of the means of navigation to be used (perhaps favouring those with low or very low environmental impact). If the legal regulatory aspects appear manageable, the factual problematic nature of the operation cannot fail to come to the fore. It could, in fact, reasonably be practiced only during a four-month period (June, July, August, September) and for a limited number of passengers (either because of objective limits on the size of the vessels that can be used, or because of problems related to the location of the ports employed and the limited number of parking lots available nearby). It would therefore be more of a shuttle with a tourist vocation than a means to serve cross-border mobility as such. Starting from these objective premises, the project, which contemplates the establishment of a shuttle service with a tourist vocation, should consider other and different aspects than those typical of mobility as such. Think, for example, of the advisability of providing a coordinated route between Menton and Monaco, that is, the possibility of enriching the attractiveness of the boat with tools and factors typical of the tourist offer (touristic guide who illustrates the characteristics of the coast at, in particular, the Balzi Rossi, or bar service, etc.). These are, however, aspects of merit that are beyond the scope of this report.

IV. A full list of all legal provisions relevant to the case

- Article 56 of the Treaty on the Functioning of the European Union (TFUE).
- Regulation (EC) No 1073/2009 of the European Parliament and of the Council

- October 21, 2009, in Official Journal L 300, 14 November 2009, p. 88–105.
- Regulation (EC) No. 4055/1986 of Council - December 22, 1986, in Official Journal L 378, 31 December 1986, p. 1–3.
- Regulation (EC) No. 3577/1992 of Council - December 7, 1992, in Official Journal L 364, 12 December 1992, p. 7–10.
- Law No. 90 of July 12, 2022, ratifying and executing the Treaty between the Italian Republic and the French Republic for Enhanced Bilateral Cooperation, done in Rome on November 26, 2021, in Official Journal No. 164 of July 15, 2022 - Legge 12 luglio 2022, n. 90, di ratifica ed esecuzione del Trattato di cooperazione bilaterale rafforzata tra la Repubblica italiana e la Repubblica francese, fatto a Roma il 26 novembre 2021, in Gazzetta Ufficiale n. 164 del 15 luglio 2022.
- Legislative Decree No. 422 of 19 November, 1997, Transfer to the regions and local authorities of functions and tasks in the field of local public transport, in Official Journal No. 287 of December 10, 1997 - Decreto legislativo n. 422 del 19 novembre 1997, Trasferimento alle regioni e agli enti locali di funzioni e compiti in materia di trasporto pubblico locale, in Gazzetta Ufficiale n. 287 del 10 dicembre 1997.
- Legislative Decree No. 111 of 1 April, 2004, Implementation regulations of the special statute of the region of Friuli-Venezia Giulia concerning the transfer of functions in the field of road and transport, Official Journal No. 103 of Mai 4, 2004 - Decreto legislativo 1° aprile 2004, n. 111, Norme di attuazione dello Statuto speciale della Regione Friuli-Venezia Giulia concernenti il trasferimento di funzioni in materia di viabilità e trasporti, Gazzetta Ufficiale n. 103 del 4 maggio 2004.
- Law No. 56 of April 7, 2014, Provisions on metropolitan cities, provinces, unions and mergers of municipalities in Official Journal No. 81 of April 7, 2014 - Legge n. 56 del 7 aprile 2014, Disposizioni sulle città metropolitane, sulle province, sulle unioni e fusioni di comuni, in Gazzetta Ufficiale n. 81 del 7 aprile 2014.

V. References

- Commission européenne, *Communication de la Commission au Conseil et au Parlement européen, Stimuler la croissance et la cohésion des régions frontalières de l'UE*, COM (2017) 534 final, 20.9.2017 ;
- P. Cossalter (ed.), *La coopération transfrontalière en Grande Région*, Editeur Editions juridiques franco-allemandes, 2016 ;
- F. Durand, *Émergence d'un gouvernance métropolitaine transfrontalière au sein de l'Eurométropole Lille-Kortrijk-Tournai. Analyse des relations entre les organisations dans le domaine du transport public transfrontalier*, in *Annales de Géographie*, 2023/3, p. 290 ff.
- M. Vellano, *Regional cooperation in the European Union*, Giappichelli Editore, Turin, 2014;
- M. Vellano, *The many variants of cross-border cooperation: general and peculiar aspects with respect to the French-Italian border*, in S. Doumbé-Billé and A. Oddenino (eds.), *Le rôle des régions dans la coopération internationale transfrontalière - L'expérience franco-italienne*, Editoriale Scientifica, Naples, 2016, pp.15-27;

VI. Appendices

1. Map taken from Google of the Mentone-Ventimiglia area;
2. Map of bus line No. 25 Menton - Tende;
3. Draft agreement between Friuli-Venezia-Giulia Region - Ministry of Transport of Slovenia on cross-border local transport.



Ligne 25



Bozza di Accordo

tra la Regione Friuli Venezia Giulia ed il Ministero delle Infrastrutture sloveno (*Ministrstvo za infrastrukturo*) per la creazione di un Sistema di Trasporto Pubblico Urbano transfrontaliero

La Regione Friuli Venezia Giulia

e

il Ministero delle Infrastrutture sloveno (*Ministrstvo za infrastrukturo*)

denominati in appresso «le parti contraenti»,

consapevoli del reciproco interesse delle parti contraenti nel promuovere la cooperazione e gli scambi, in particolare attraverso la reciproca concessione dell'accesso ai rispettivi mercati dei trasporti, come previsto:

- dall'art 25 del Regolamento CE 1073/2009;
- dal combinato disposto del Decreto Legislativo n° 111 del 01 Aprile 2004 e dalla Relazione Illustrativa del Piano Regionale del Trasporto Pubblico Locale (Legge Regionale 23/2007 Friuli Venezia Giulia);
- dall'art. 53 della Legge sul Trasporto stradale sloveno, *Zakon o prevozih v cestnem prometju* (ZPCP-2), del 2013;

desiderose di sviluppare una politica dei trasporti coordinata allo scopo di incoraggiare l'uso di mezzi di trasporto passeggeri, più rispettosi dell'ambiente, nell'ottica di unire la tutela dell'ambiente all'efficacia dei sistemi di trasporto, segnatamente nella regione italo-slovena, con particolare riferimento ai Comuni di Gorizia (It), Nova Gorica (Slo) e Sempeter-Vrtojba (Slo),

desiderose di garantire una concorrenza leale in ambito di trasporto pubblico di passeggeri, considerando che essi devono coprire i costi cui danno origine,

consapevoli della necessità di garantire la coerenza fra la politica nazionale dei trasporti di ambedue i Paesi ed i principi generali della politica comunitaria dei trasporti, in particolare nel contesto dell'attuazione di un quadro legislativo e regolamentare coordinato,

convengono quanto segue.

Titolo I Disposizioni generali

Art. 1 Principi e obiettivi generali

1. Il presente Accordo è inteso, da un lato, a liberalizzare l'accesso delle parti contraenti ai rispettivi mercati del trasporto stradale di passeggeri, allo scopo di garantire uno scorrimento più agevole del traffico sull'itinerario tecnicamente, geograficamente ed economicamente più adatto per la modalità di trasporto contemplata dall'Accordo, e, dall'altro, è volto a determinare le modalità di una politica coordinata dei trasporti.
2. Le disposizioni dell'Accordo e la loro applicazione si basano sul principio della reciprocità e della libera scelta del modo di trasporto pubblico su strada.
3. Le parti contraenti si impegnano a non adottare misure discriminatorie nell'ambito dell'applicazione del presente Accordo.

Art. 2 Campo di applicazione

1. Il presente Accordo si applica ai trasporti pubblici bilaterali su strada di passeggeri fra le parti contraenti, al transito attraverso il loro territorio, e alle operazioni di trasporto pubblico su strada di passeggeri a carattere triangolare tra i Comuni di Gorizia (It), Nova Gorica (Slo) e Sempeter-Vrtojba

(Slo).

2. Il presente Accordo si applica al trasporto pubblico passeggeri. Esso non si applica alle imprese ferroviarie.
3. Il presente Accordo si applica alle operazioni di trasporto effettuate da imprese di trasporto su strada con sede in una delle parti contraenti.

Art. 3 Definizioni

1. Trasporti stradali

Ai fini del presente Accordo si intende per:

- professione di trasportatore di passeggeri su strada: l'attività di un'impresa che esegue, per conto terzi, trasporti nazionali ed internazionali di passeggeri a mezzo autobus;
- impresa: qualsiasi persona fisica o giuridica con o senza scopo di lucro, od associazione o gruppo di persone senza personalità giuridica con o senza scopo di lucro, nonché qualsiasi organismo che rivesta funzioni di autorità pubblica, il quale abbia personalità giuridica o dipenda da un'autorità avente personalità giuridica;
- veicolo: veicolo a motore immatricolato nel territorio di una parte contraente, od ogni autoveicolo atto, secondo il tipo di costruzione e l'attrezzatura, a trasportare più di nove persone, conducente compreso, e destinato a tal fine;
- trasporto internazionale: spostamento di un veicolo il cui punto di partenza si trovi nel territorio di una parte contraente e la cui destinazione sia situata nel territorio dell'altra parte contraente o in un paese terzo e viceversa, nonché lo spostamento del veicolo a vuoto relativo al percorso sopra citato; qualora il punto di partenza o di destinazione dello spostamento sia situato in un paese terzo, il trasporto deve essere effettuato da un veicolo immatricolato nel territorio della parte contraente in cui si trova il punto di partenza o di destinazione dello spostamento;
- transito: il trasporto di passeggeri effettuato senza operazioni di carico o scarico e lo spostamento del veicolo a vuoto attraverso il territorio di una parte contraente;
- traffico triangolare con paesi terzi: qualsiasi trasporto di passeggeri effettuato con partenza dal territorio di una parte contraente e viceversa, con un veicolo immatricolato nel territorio di una delle parti contraenti, sia che detto veicolo - nel corso dello stesso viaggio e secondo l'itinerario abituale - transiti o meno dal paese in cui è immatricolato;
- autorizzazione: autorizzazione, licenza o concessione richiesta secondo la legislazione della parte contraente.

Titolo II Trasporti pubblici stradali internazionali

Disposizioni comuni

Art. 4 Accesso alla professione

1. Le imprese che intendono esercitare l'attività di trasportatore su strada devono soddisfare i tre requisiti seguenti:
 - onorabilità;
 - adeguata capacità finanziaria;
 - competenza professionale.
2. Le relative disposizioni applicabili figurano nell'allegato 1.

Art. 5 Norme sociali

Le disposizioni applicabili in materia sociale sono quelle vigenti nell'Unione Europea ai quali

regolamenti si rimanda.

Le disposizioni applicabili in materia sociale figurano nella Sezione 2 dell'allegato 1.

Art. 6 Norme tecniche

1. Entrambi i Paesi adottano regimi equivalenti alla legislazione comunitaria relativa ai requisiti tecnici che disciplinano il trasporto pubblico stradale di passeggeri, alla quale fa riferimento nella sezione 3 dell'allegato 1.
2. Ciascuna parte contraente si impegna a non applicare ai veicoli omologati al trasporto pubblico nel territorio dell'altra parte contraente condizioni più restrittive di quelle in vigore nel proprio territorio.

Art. 7 Condizioni applicabili ai trasportatori

1. Ogni trasportatore per conto terzi è ammesso ad effettuare i servizi di trasporto definiti nell'articolo 1 dell'allegato 3 senza discriminazioni riguardo alla nazionalità o al luogo di stabilimento, purché:
 - sia abilitato, nello Stato membro UE in cui è stabilito ad effettuare trasporti a mezzo autobus, con servizi regolari, compresi i servizi regolari specializzati, o con servizi occasionali;
 - soddisfi le regolamentazioni in materia di sicurezza stradale per quanto concerne le norme applicabili ai conducenti e ai veicoli.
2. Ogni trasportatore che esercita l'attività per conto proprio è ammesso ad effettuare i servizi di trasporto di cui all'articolo 1, punto 3, dell'allegato 3 senza discriminazioni riguardo alla nazionalità o al luogo di stabilimento, purché:
 - sia abilitato nello Stato membro UE ad effettuare trasporti a mezzo autobus in base alle condizioni d'accesso al mercato fissate dalla legislazione comunitaria e nazionale;
 - soddisfi le regolamentazioni in materia di sicurezza stradale per quanto concerne le norme applicabili ai conducenti e ai veicoli.
3. Per effettuare trasporti internazionali di passeggeri a mezzo autobus, i trasportatori che soddisfano ai requisiti di cui al paragrafo 1 devono essere in possesso di una licenza comunitaria. Il modello, le procedure in materia di rilascio, uso, e rinnovo delle licenze sono disciplinati dal regolamento comunitario n. 1071/2009; l'impresa di trasporto deve essere iscritta al Registro Elettronico Nazionale (REN) in posizione "attiva". Competente all'iscrizione al REN è l'Ufficio di motorizzazione civile nel cui territorio ha sede l'impresa; l'impresa deve essere inoltre in possesso di un titolo legale valido per esercitare servizi di trasporto di viaggiatori a mezzo autobus in ambito nazionale, rilasciato dalle competenti autorità.

Art. 8 Accesso al mercato

1. I servizi occasionali definiti all'articolo 1 dell'allegato 3 sono esentati da qualsiasi autorizzazione.
2. I servizi regolari specializzati sono esentati da qualsiasi autorizzazione purché siano regolati, nel territorio della UE, da un contratto stipulato fra l'organizzatore ed il trasportatore.
3. Sono altresì esentati da qualsiasi autorizzazione gli spostamenti dei veicoli a vuoto relativi ai servizi di trasporto di cui ai paragrafi 1 e 2.
4. I servizi regolari sono soggetti ad autorizzazione conformemente agli articoli 2 e seguenti dell'allegato 3.
5. I servizi regolari specializzati non regolati da un contratto stipulato fra l'organizzatore ed il trasportatore sono soggetti ad autorizzazione nel territorio UE, conformemente agli articoli 2 e seguenti dell'allegato 3.

6. I trasporti su strada effettuati per conto proprio, di cui all'articolo 1 dell'allegato 3, sono esentati da autorizzazione e sono soggetti, nel territorio UE, ad un regime di attestazione.

Art. 9 Trasporto fra due punti situati nel territorio di una stessa parte contraente

Le operazioni di trasporto fra due punti situati nel territorio di una stessa parte contraente, effettuate da trasportatori stabiliti nel territorio dell'altra parte contraente, non sono autorizzate dal presente Accordo.

Art. 10 Procedure

Le procedure in materia di rilascio, uso, rinnovo e scadenza delle autorizzazioni e le procedure relative alla reciproca assistenza sono disciplinate dalle disposizioni vigenti nella UE e richiamate all'allegato 3.

Art. 11 Disposizione transitoria

Le autorizzazioni per i servizi di trasporto esistenti alla data di entrata in vigore del presente Accordo restano valide fino alla loro scadenza, sempreché i servizi in questione continuino ad essere soggetti ad autorizzazione.

Titolo III Politica coordinata dei trasporti

Disposizioni generali

Art. 12 Obiettivi

1. Le parti contraenti convengono di sviluppare, nella misura necessaria, una politica coordinata dei trasporti di passeggeri. Tale politica è intesa ad associare l'efficienza dei sistemi di trasporto alla tutela dell'ambiente, garantendo così una mobilità sostenibile.
2. Le parti contraenti si adoperano per instaurare un'ampia comparabilità delle condizioni di trasporto - aspetti fiscali compresi - nei rispettivi territori, allo scopo, in particolare, di ottenere una migliore distribuzione del traffico.

Art. 13 Misure

1. Per realizzare tale obiettivo le parti contraenti adottano misure volte a garantire una concorrenza leale fra i diversi modi di trasporto e all'interno di essi, e ad agevolare l'uso di mezzi di trasporto pubblico di passeggeri maggiormente rispettosi dell'ambiente.
2. Le misure adottate dalle parti contraenti nell'ambito del presente Accordo sono applicate in maniera coordinata.

Art. 14 Principi

Le misure di cui all'articolo 13 devono essere conformi ai seguenti principi:

- divieto di discriminazione, diretta o indiretta, in base alla nazionalità del trasportatore, al luogo di immatricolazione del veicolo o all'origine e/o alla destinazione del trasporto;
- concorrenza leale;
- rinuncia all'introduzione di restrizioni quantitative unilaterali;
- territorialità;
- proporzionalità della tassazione rispetto ai costi legati al trasporto, inclusi i criteri relativi al tipo di veicolo;
- trasparenza;

- assenza di distorsioni nei flussi di traffico;
- reciprocità.

Sistemi di tariffazione dei trasporti pubblici stradali di passeggeri

Art. 15 Obiettivi

Le parti contraenti, nell'ambito delle loro competenze e secondo le loro rispettive procedure, si prefiggono di introdurre progressivamente una tariffazione coordinata e basata sull'imputazione ai veicoli circolanti su strada, dei costi cui danno origine.

Art. 16 Principi

1. I sistemi di tariffazione si basano sui principi enunciati nell'articolo 15, in particolare la non discriminazione, la proporzionalità e la trasparenza.
2. La tariffazione è costituita da tasse sui veicoli, imposte sul carburante e tariffe di uso della rete stradale.
3. Per il raggiungimento degli obiettivi menzionati nell'articolo 15 sono scelte di preferenza misure che non provocano deviazioni di traffico rispetto all'itinerario tecnicamente, economicamente e geograficamente più idoneo fra il punto di partenza e il punto di destinazione finale del trasporto.
4. Le misure sono applicate in modo da non ostacolare la libera circolazione di utenti e passeggeri fra le parti contraenti, in particolare per quanto riguarda la gestione e la riscossione dei pedaggi o delle tariffe di uso della rete, l'assenza di controlli e di verifiche sistematiche alle frontiere fra le parti contraenti, e l'assenza di formalità eccessive.

Art. 17 Interoperabilità degli strumenti

Per garantire un livello adeguato di interoperabilità dei sistemi elettronici di riscossione delle tariffe di uso della rete stradale, le parti contraenti si consultano in sede di Comitato misto.

Art. 18 Riesame del livello delle tariffe

1. A decorrere dalla sottoscrizione del presente Accordo, in sede di Comitato misto, ogni due anni i livelli massimi delle tariffe stabilite sono adeguati per tenere conto del tasso di inflazione nei due anni precedenti.
2. Su richiesta di una delle parti contraenti, saranno riesaminati i livelli massimi delle tariffe stabilite, in vista dell'adozione, di comune accordo, di una decisione per adeguarle.

Misure d'accompagnamento

Art. 19 Agevolazione dei controlli alle frontiere

Le parti contraenti si impegnano a snellire e a semplificare le formalità che gravano sul trasporto, in particolare in campo doganale.

Art. 20 Norme ecologiche per veicoli di trasporto

1. Per una migliore tutela dell'ambiente, e fermi restando gli obblighi derivanti dall'articolo 6, le parti contraenti si prefiggono in particolare l'obiettivo di introdurre norme ecologiche che garantiscano un livello di protezione elevato, per ridurre i gas di scarico, le emissioni di particolato ed il rumore prodotto dai veicoli commerciali pesanti.
2. Nel corso dell'elaborazione di queste norme le parti contraenti si consultano a scadenze regolari.

3. La categoria di emissioni (EURO) dei veicoli (quale definita nella legislazione comunitaria), se non è menzionata nella carta di circolazione del veicolo, è verificata a partire dalla data della prima messa in circolazione figurante su detta carta oppure, ove del caso, sulla base di un documento aggiuntivo speciale, redatto dalle autorità competenti dello Stato di rilascio.

Art. 21 Osservatorio del traffico

1. Un Osservatorio permanente di rilevamento del traffico stradale e combinato sarà istituito dall'entrata in vigore del presente Accordo. L'Osservatorio trasmetterà annualmente una relazione sull'andamento del traffico al Comitato misto di cui all'articolo 24 del presente Accordo.
2. I lavori dell'Osservatorio sono finanziati dalle parti contraenti. Il criterio di ripartizione dei finanziamenti è determinato dal Comitato misto.
3. Le parti contraenti determinano le modalità amministrative di funzionamento dell'Osservatorio con una decisione del Comitato misto che sarà presa in occasione della prima riunione del Comitato stesso.

Titolo IV Disposizioni generali e finali

Art. 22 Applicazione dell'Accordo

1. Le parti contraenti adottano tutte le misure di carattere generale o particolare atte a garantire l'adempimento degli obblighi del presente Accordo.
2. Esse si astengono dall'adottare qualsiasi misura che possa compromettere il conseguimento degli obiettivi del presente Accordo.

Art. 23 Misure di riequilibrio

Qualora una parte contraente constati che l'altra parte contraente non rispetta gli obblighi stabiliti dal presente Accordo, o che essa non applica una decisione del Comitato misto, la parte contraente lesa, previa consultazione in sede di Comitato misto, può adottare le misure atte a mantenere l'equilibrio del presente Accordo. Le parti contraenti forniscono al Comitato misto tutti gli elementi utili per esaminare a fondo la situazione.

Art. 24 Comitato misto

1. Viene istituito un Comitato misto denominato «Comitato del trasporto pubblico integrato Italia-Slovenia», composto da rappresentanti delle parti contraenti, responsabile della gestione e della corretta applicazione del presente Accordo. A tal fine esso formula raccomandazioni e adotta decisioni nei casi previsti dall'Accordo stesso. Tali decisioni sono eseguite dalle parti secondo le rispettive norme. Il Comitato misto si pronuncia di comune accordo.
2. Il Comitato misto garantisce in particolare la verifica e l'applicazione delle disposizioni del presente Accordo. Esso applica altresì le clausole di adeguamento e di revisione di cui agli articoli 25 e 28.
3. Per una corretta esecuzione del presente Accordo le parti contraenti procedono regolarmente a scambi di informazioni e, su richiesta di una di esse, si consultano in sede di Comitato misto. Le parti si comunicano a vicenda i dati forniti dalle autorità incaricate di applicare il presente Accordo ed in particolare di rilasciare le autorizzazioni e di procedere ai controlli. Tali autorità scambiano direttamente la propria corrispondenza.
4. Il Comitato misto adotta, mediante decisione, il proprio regolamento interno, che contiene, fra le altre disposizioni, le modalità per indire le riunioni, designare la presidenza e definirne il mandato.
5. Il Comitato misto si riunisce in funzione delle esigenze, e almeno una volta all'anno. Ciascuna parte contraente può chiedere che venga indetta una riunione.

6. Il Comitato misto può decidere di costituire gruppi di lavoro o di esperti per assisterlo nello svolgimento dei propri compiti.

Art. 25 Evoluzione del diritto

1. Il presente Accordo non pregiudica il diritto di ciascuna parte contraente di modificare autonomamente, fatto salvo il rispetto del principio di non discriminazione e fatte salve le disposizioni del presente Accordo, la sua legislazione interna nei settori contemplati dal presente Accordo.
2. Quando una parte contraente elabora una nuova legislazione in uno dei settori contemplati dal presente Accordo, essa richiede in via informale il parere di esperti dell'altra parte. Durante il periodo che precede l'adozione formale della nuova legislazione, le parti contraenti si scambiano informazioni e si consultano nella misura necessaria. Uno scambio di opinioni preliminare ha luogo in sede di Comitato misto su richiesta di una delle parti contraenti, in particolare sulle conseguenze che una tale modifica comporta per il funzionamento dell'Accordo.
3. Una volta adottata la legislazione modificata, e comunque entro otto giorni dalla sua pubblicazione nella Gazzetta ufficiale dell'Unione Europea, la parte contraente interessata notifica all'altra parte contraente il testo delle nuove disposizioni. Su richiesta di una delle parti contraenti, si procede ad uno scambio di opinioni in sede di Comitato misto relativamente alle conseguenze dell'emendamento sul funzionamento dell'Accordo, al più tardi entro un termine di due mesi dalla data della richiesta.
4. Il Comitato misto:
 - adotta una decisione relativa alla revisione degli allegati 1 e 3 o propone una revisione delle disposizioni del presente Accordo per integrarvi, per quanto necessario su base di reciprocità, le modifiche apportate alla legislazione in questione, oppure
 - adotta una decisione in base alla quale le modifiche della legislazione in questione sono ritenute conformi al presente Accordo, oppure
 - decide qualsiasi altra misura intesa a preservare il corretto funzionamento del presente Accordo.
5. Per raggiungere gli obiettivi fissati dal presente Accordo, le parti contraenti adottano tutte le misure necessarie affinché i diritti e gli obblighi equivalenti a quelli contenuti negli atti giuridici dell'Unione Europea e che figurano nell'allegato 1 trovino applicazione nelle loro relazioni.

Art. 26 Riservatezza

I rappresentanti, gli esperti e gli altri agenti delle parti contraenti sono tenuti, anche dopo la cessazione delle loro funzioni, a non divulgare le informazioni ottenute nell'ambito del presente Accordo, che per la loro natura sono coperte dal segreto professionale.

Art. 27 Composizione delle controversie

Ciascuna parte può sottoporre al Comitato misto una controversia relativa all'interpretazione o all'applicazione del presente Accordo. Il Comitato cercherà di risolvere la vertenza. Sono forniti al Comitato misto tutti gli elementi d'informazione utili che permettano un esame approfondito della situazione per trovare una soluzione accettabile. A tale scopo il Comitato misto esamina tutte le possibilità che consentano di mantenere il corretto funzionamento del presente Accordo.

Art. 28 Revisione dell'Accordo

1. Se una parte contraente desidera una revisione delle disposizioni del presente Accordo, essa ne informa il Comitato misto.
2. Tale Accordo potrà essere modificato, con decisione del Comitato misto conformemente all'articolo

24, paragrafo 1, per tenere conto dell'evoluzione della legislazione comunitaria in materia.

Art. 29 Campo d'applicazione territoriale

Il presente Accordo si applica ai territori dei Comuni di Gorizia (It), Nova Gorica (Slo) e Sempeter-Vrtojba (Slo).

Art. 30 Allegati

Gli allegati 1, 2, 3 sono parte integrante del presente Accordo.

Art. 31 Clausole finali

1. Il presente Accordo sarà ratificato o approvato dalle parti conformemente alle rispettive procedure.
2. Il presente Accordo è concluso per un periodo iniziale di cinque anni ed è rinnovato a tempo indeterminato tranne se le parti contraenti notificano all'altra parte la propria intenzione contraria, prima della scadenza del periodo iniziale. In caso di notifica, si applicano le disposizioni del paragrafo 3.
3. Il presente Accordo cessa di essere applicabile sei mesi dopo il ricevimento della notifica dell'intenzione di non rinnovare l'Accordo di cui al paragrafo 2.

Fatto a _____, addì _____, in duplice copia in lingua italiana e slovena, ciascun testo facente ugualmente fede.

Per la Regione Friuli Venezia Giulia:

Per il Ministero delle Infrastrutture sloveno (*Ministrstvo za infrastrukturo*):

Elenco degli allegati

Allegato 1 - Disposizioni applicabili

Allegato 2 - Modalità di applicazione delle tariffe

Allegato 3 - Servizi di trasporto internazionale di viaggiatori e procedure relative alle autorizzazioni

