

Maastricht University

Cross-border Impact Assessment 2017

Summary

The *Institute for Transnational and Euregional cross border cooperation and Mobility / ITEM* is the pivot of scientific research, counselling, knowledge exchange, and training activities with regard to cross-border cooperation and mobility.

ITEM is an initiative of Maastricht University (UM), the Dutch Centre of Expertise on Demographic Changes (NEIMED), Zuyd University of Applied Sciences, the City of Maastricht, the Euregio Meuse-Rhine (EMR), and the Dutch Province of Limburg.



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1. Introduction

1.1. Follow-up to 2016, current objectives, and background

The Institute for Transnational and Euregional cross border cooperation and Mobility / ITEM makes a scientific contribution to cross-border mobility and cooperation. One of the research activities with which ITEM makes this contribution is the development and performance of an annual cross-border impact assessment.

What are the effects of new legislation on border regions? And how are border regions influenced by current legislation?

In 2016, ITEM published its first Cross-border Impact Assessment. The research involved ten dossiers and nineteen researchers, and resulted in more than 300 pages of valuable research on border regions. The cross-border impact assessment 2016 covered a wide range of issues, from taxes to road tolls. For these topics, the cross-border impact of existing and forthcoming legislation was identified for border regions. However, it went further than that. The ITEM cross-border impact assessment 2016 forms the basis for further action and research focused on improving cross-border labour mobility.

Following ITEM's research, the mapping of effects for border regions has been taken up by others. For example, the European Commission has shown interest in the cross-border impact assessment tool, specifically in the approach developed by ITEM. DG Regio was advised by ITEM in preparing the 'Boosting growth and cohesion in EU border regions' roadmap.

When it comes to its content, the ITEM Cross-border Impact Assessment 2016 formed the basis for further action and research aimed at improving cross-border labour mobility. In the context of the dossier Social security, two symposiums for employers were organised in collaboration with the Holland Expat Center South, the Maastricht border information point (Grensinfopunt), and City Deal Eurolab. The ITEM information sessions were aimed at cross-border sickness reporting in the Netherlands/Germany.

Moreover, the ITEM Cross-border Impact Assessment 2016 led to the organisation of an expert workshop in partnership with the European Parliament. The workshop focused on the Commission proposal to amend Regulations 883/2004 and 987/2009. Finally, other issues in the ITEM Cross-border Impact Assessment 2016 also remain relevant. For example, the role of the UWV (Dutch Employee Insurance Agency) in cross-border employment services was investigated. The dossier Recognition of Professional Qualifications revealed that current EU legislation contains no separate provisions on the unique situation of frontier workers. To that end, ITEM launched a feasibility study into a cross-border professional recognition card. The purpose of the study is to design a tool to ensure recognition procedures in border regions can run as quickly and efficiently as possible.

Finally, some dossier topics called for further research in a following cross-border impact assessment. Thus, two dossiers from 2016 were revisited in the 2017 report. The dossier Tax Treaty Netherlands-Germany and the dossier Social security were once again included in the ITEM cross-border impact assessment 2017.

Like last year, the aim of the cross-border impact assessment is to provide a contribution to:

- the ex ante recognition of potential negative or positive cross-border effects of planned legislation or policy initiatives, and
- the ex post identification of negative or positive cross-border effects of existing policy or legislation.

The cross-border assessment may be used to assess the intentions of the European Union (EU) and/or governmental bodies at national and/or regional levels.

This report is a summary of the results of ITEM's cross-border impact assessment 2017, and describes the assessment of six individual dossiers. In 2017, the focus is on both the evaluation of the impact on border regions of policy and legislation (Tax Treaty NL/DE, national legislation concerning third country nationals, NL tax legislation/90% rule) that has already come into effect (ex post), and the identification of desired or undesired effects on border regions. Also included in this cross-border impact assessment are the European Commission's proposals which have been analysed ex ante (EU Regulation on Coordination of Social Security Systems) and national measures which have not yet entered into force but have been adopted by the Parliament (German car toll and Belgian legislation on the identification of travellers). Furthermore, two dossiers in this year's cross-border impact assessment involved preliminary research which concluded that the topics could be researched more extensively. In some dossiers, the assessment of the cross-border impact was not restricted to an analysis of the legislation. The policies of implementing bodies, administrative capacities, and rules can likewise have a negative or positive effect, and so these were also investigated in a number of dossiers.

1.2. For whom is this cross-border impact assessment intended?

The cross-border impact assessment offers additional insights into national and EU initiatives, and is intended as a valuable tool and resource for the policymakers behind the decisions concerning border regions.

Firstly, this annual cross-border impact assessment of relevant dossiers can provide the border regions with a tool to help better identify existing or expected problems and support the political debate. This in order to allow timely adjustments to be made to the legislative proposal during the parliamentary legislative process, prior to implementation.

Secondly, this report may offer added value to the European Commission's ex ante impact assessment and the evaluation of existing legislation. Finally, the report can also contribute to a better ex ante and ex post evaluation of legislation and policy for the Member States and regional legislators.

2. Method

2.1 Framework

Definition

We define border regions as the cross-border areas surrounding the borders of the Netherlands, Belgium, and Germany. This definition will be further refined in the individual sections of this report, as appropriate to the subject. The idea underlying this specific definition is that general observation reveals few if any generic causes of the effects on border regions. These issues are rooted in the national conversion and implementation of European law and the level of coordination between the neighbouring countries. Even though the European legislation has been on the books for years, a number of obstacles arise from the way in which the Member States have implemented EU law, the quality of the national law, and its implementation in practice. ITEM therefore advocates more of a bottom-up approach from and for the border regions, and calls for more study of the effects on specific regions. Experiences from the first round in 2016 have shown that there is interest within national and European institutions for targeted research at a Euregional level.

More border assessments

ITEM's cross-border impact assessment is complementary to the several evaluations carried out (or in preparation) at the European, national, and regional levels. Table 1 shows what impact assessment tools are applied or are being prepared at various levels. However, these tools do not appear to be well suited for monitoring the impact of legislation on specific border regions.

'Brussels', for example, lacks detailed knowledge of the expected (or already existing) negative cross-border effects of policy and legislation in each region. With that being the case, it is not realistic to expect the European Commission to be able to map out detailed cross-border effects for the entire EU (and its great diversity of border situations) within the framework of its own impact assessment. The Committee of the Regions has established this on numerous occasions.

Nor is it particularly realistic to expect a line ministry at national level to have detailed knowledge of all border regions. For instance, the Federal Government in Berlin could hardly be expected to be able to conduct an ex ante assessment of the situation at the borders with all nine of Germany's neighbouring countries. For certain effects, the diversity is simply too great. This shows that there is a need for small-scale, bottom-up border assessments from the perspective of individual border regions. In future, these could form the building blocks of a national analysis designed to better identify the impact of legislation and policy.

Border regions require a structural analysis, but they frequently lack the tools and know-how. ITEM's cross-border impact assessment could make a contribution to the specific analyses for border regions in 2017 too and serve as an example for others. ITEM drew attention to the method and approach at various conferences in both 2016 and 2017. A multitude of independent and detailed cross-border reviews would be of tremendous use in the evaluation of European legislation (ex ante impact assessment) and the evaluation of the ex post impact. And perhaps even more importantly, at national level these could be an important element in the evaluations conducted by national and regional authorities and legislators.

Table 1: Impact evaluation – various tools

Tool	Application	Decision stage	Objective/focus
European Commission	Regulatory Impact Assessment	Assessment of a Commission proposal on policy strategy or legislation	Cost-benefit analysis, employment, European competition, sustainability, territorial dimension (as decided until now)
National government Netherlands	Discussion about the cross-border impact assessment prior to national/EU legislation/policy	National ex ante component of the proposal by line ministries	Coordination on national policy/border situation, Coordination on transposing EU law into neighbouring countries
Province of Limburg Internal border assessment	Intention: assessment of cross-border effects of provincial decisions	Ex ante	Prevention of negative cross-border effects of provincial policy
ESPON Quickscan ARTS Territorial Impact Assessment	Assessment of territorial effects of EU legislation	Ex ante	Improvement of impact assessments by the European Commission and Member States
EURO Institut/Center for Cross Border Studies, Impact Assessment Toolkit for cross-border cooperation	Assessment of cross-border projects/policy	Ex ante	Improvement of projects and programmes
ITEM Annual Cross-border Impact Assessment	Assessment of cross-border impact of relevant EU, national, and regional legislation/policy.	Ex ante and ex post	The identification of the effects of legislation and policy on cross-border mobility in a broad sense (Focus in 2017 in the BE/NL/DE region)

2.2 Methodological questions

What is a border region?

The research area of this assessment is, in a broad sense, the border regions along the German/Dutch/Belgian border. In each dossier, the border region researched is more specifically defined. For the German toll, student mobility, and the identification of travellers, this is the geographical area of the Euregio Meuse-Rhine, for example. The research into the Tax Treaty Netherlands-Germany focuses on the Netherlands-Germany border region accordingly. The Social security dossier generally focuses on the border regions marked by cross-border labour, whereas the 90% rule concentrates on the NUTS3/COROP areas which lie immediately along the Dutch/Belgian and Dutch/German border. It is important to avoid a national perspective. A nationally defined border region (such as the Province of Limburg) understandably has, first and foremost, a national perspective of the border. The disadvantage from that perspective (for example, in the case of unequal excise duties) can, on the other hand, translate into an advantage for the Belgian or German neighbours. For this reason, the research area for ITEM's cross-border impact assessment is first and foremost the cross-border Euregion, not the border region. This approach which we adopted in 2016 also forms the basis for the research in 2017.

The Euregion as benchmark?

Euregions and other cross-border partnership structures formulate strategies and programmes that identify priorities for improving cross-border situations. For a number of dossiers in ITEM's cross-border impact assessment 2017, it proved possible to use the perspective and the objectives of border regions as a benchmark for desired or undesired effects. For some subjects, the geographic definition was added as a further element.

Figure 1 Cross-border partnerships along the border (BE/NL/DE/LU)
Source: DG Regio



2.3 Research themes, principles, benchmarks, and indicators

The ITEM cross-border impact assessment is broken down into dossiers, focusing on the following three themes:

1. the cross-border impact from the perspective of individuals, associations, and enterprises correlated with the objectives and principles of European Integration (freedoms, citizenship, and non-discrimination);
2. the cross-border impact on socioeconomic development/sustainable development;
3. the cross-border impact on Euregional cohesion and cross-border governance structures (cooperation with governmental agencies, private citizens, the business sector, etc.).

It is possible to initiate a discussion about the potential impact of legislation on individual positions of employees or employers. A number of the dossiers look at what effects legislation or its application in practice has on the freedom of individuals and businesses in a cross-border context (such as the Dutch 90% rule). To what extent are measures in violation of the principles of non-discrimination (1) as described in the EU treaty or defined by directives, regulations, and case law?

This year, ITEM examined the consequences of legislation on Euregional economic development more closely than in 2016 with regard to the transposition of certain national laws (for example, the German toll and traveller identification). How will citizens/car owners react to the introduction of a toll? How will habits change and what could this mean for the Euregional economy? What does this mean for the sustainable development for the environment in villages, if drivers start to take shortcuts?

Finally, in each dossier, researchers also asked what a certain measure means for Euregional cohesion, cooperation between institutions, business, contacts, and the mindset of cross-border activities amongst citizens. That is an important aspect in assessing the relationships between the establishment and organization of Euregions and Euregional mindset of citizens.

ITEM researchers attempted as much as possible to describe for each subject what the impact would be from the perspective of the three themes indicated above (citizenship, European integration and development, and Euregional cohesion). The subject of the research here was not only the treaties, directives, and regulations themselves, but also their application in practice. The political vision formulated by a Euregion of a very mobile cross-border labour market likewise came into the picture. Finally, the researchers formulated indicators to review whether legislation or other rules might facilitate or impede best practices.

Table 2: Examples of principles, benchmarks, and indicators

Goals/principles	Good practice/benchmark	Indicators
European integration, European citizenship, Non-discrimination	No border controls, open labour market, easy recognition of diplomas, good coordination of social security facilities, taxes	Number of border controls, cross-border commuting, duration and cost of recognition of diplomas, access to housing market, etc.
Regional competitive strength, Sustainable development of border regions	Cross-border initiatives for establishing companies, Euregional labour market strategy, cross-border spatial planning	Euregional: GDP, unemployment, quality of cross-border cluster, environmental impact (emissions), poverty
Cross-border cooperation/Good Governance, Euregional cohesion	Functioning of cross-border services, cooperation with organizations, coordination procedures, associations	The number of cross-border institutions, the quality of cooperation (in comparison to the past), development of Euregional governance structures, quantity and quality of cross-border projects

2.4 Cross-border impact assessment 2017 dossiers

In late 2016/early 2017, ITEM conducted a survey among professionals and officials dealing with cross-border mobility and cooperation issues. The survey was designed to solicit information about current themes or legislation calling for further analysis.

After sending out its survey questionnaires, ITEM received 18 responses from various partners (border info points, regional authorities, Euregions, and trade unions). Additionally, a number of topics were proposed through other channels. After the dossiers and subjects submitted were screened, eight were ultimately selected by the Cross-border Impact Assessment working group set up by ITEM, consisting of personnel in various ITEM partner organizations, using an analysis tool as they did in 2016. ITEM's working group assessed the submissions, looking at the topicality of the issues, the relationship to ITEM's research focus, the number of requests submitted in relation to a subject, and the various research themes within specific subjects, to come up with the selection of the six dossiers (plus two preliminary studies).

Some of the dossiers therefore focus on the specific financial effects, particularly for frontier workers and businesses (Netherlands-Germany tax treaty/90% rule/coordination of social security systems), while others look primarily at the effects on economic development (German toll and Belgian traveller identification) or Euregional cooperation and cohesion. ITEM also once again leveraged its partnerships with other parties, and solicited student input in the second cross-border impact assessment in 2017. This resulted in extraordinary preliminary research into the dossier by a team of students from Fontys University of Applied Sciences about the establishment of Euregions and the Euregional mindset of citizens. The students' involvement was also crucial in other dossiers.

Table 3: Themes of the cross-border impact assessment 2017

No.	Subject	Specification
Dossiers		
1.	The potential effects of the German toll on border regions	Research focused on the potential effects of the proposed German toll legislation. The dossier includes a survey carried out among Dutch and German drivers, and interviews with German experts from the tourism, marketing, and retail sectors.
2.	Tax Treaty Netherlands-Germany	Follow-up to the ITEM cross-border impact assessment 2016 by drawing a comparison between the income situation of frontier workers (Dutch and German) and their neighbours and colleagues.
3.	Social security	Research focused on the ex ante analysis of the proposed amendments to EU Regulation No 883/2004 and 987/2009. The focus is on cross-border social security in long-term care, unemployment benefits, family benefits, and social benefits for EU citizens who are not economically active.
4.	Cross-border (im)mobility of students from third countries in the Euregio Meuse-Rhine	Analysis and evaluation of European and national student immigration policy from a Euregional perspective. In particular, the research focused on the question whether there is a border region penalty for students from third countries, whereby they experience more obstacles than students who live and work or study in the same Member State.
5.	Belgian passenger name records regulation	Dossier research focused on evaluating the potential impact of the proposed Belgian measure of processing passenger name records on cross-border mobility. The dossier also aims at identifying possible conflicts between the proposed measure and European law.
6.	The qualifying foreign taxpayer obligation ("90% rule"): a quantitative ex-ante impact assessment	Analysis of non-resident workers in the Netherlands as of 1 December 2014. The purpose of the research is to provide an estimate of the potential cross-border impact of qualifying foreign tax liability (90% rule), which entered into force on 1 January 2015.
Preliminary research by student teams		
1.	Euregional mindset in two Euregions	A study on the European mindset of citizens in the Euregio Meuse-Rhine and euregio rhine-meuse-north
2.	Ex-ante analysis of the effects of the General Data Protection Regulation in Limburg	Research into businesses in Limburg with regard to their preparation for the legal requirements in data protection 2018.

3. Dossiers

3.1 The potential effects of the German car toll on border regions

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In January 2017, the German Bundestag adopted the *Infrastrukturabgabengesetz* (Infrastructural Charges Act). In March 2017, the Bundesrat subsequently voted for the legislation to enter into force. The measure – known as the ‘car toll’ – is now expected to be introduced in 2019. The act provides that owners of foreign-registered vehicles for use on German motorways must purchase a vignette. The fees are scaled according to the duration of use and the vehicle emissions. Owners of vehicles registered in Germany must also pay this tax, but it will be written off against their motor vehicle tax. The act was adopted amidst a public debate about potential discriminatory effects on owners of foreign-registered vehicles and the estimated revenue for the state. This dossier deals with the potential effects of the toll on border regions, such as the Euregio Meuse-Rhine (EMR). In that regard, the *Institute for Transnational and Euregional cross border cooperation and Mobility / ITEM* carried out an online survey among car drivers from the Belgian and Dutch parts of the EMR, with 422 people responding to the survey. In addition, qualitative interviews were held with German experts in tourism, marketing, and retail. The German car toll could therefore have negative consequences on the EMR – the border region between Germany, the Netherlands, and Belgium – something which was not considered in the federal government’s assessment. This relates especially to the unresolved legal issue of discrimination against EU citizens (1), the possibility of influencing future EU measures on tolls (2), the issue of financial losses for certain sectors in Germany and for the regional economy (3), the negative effect in terms of emissions and noise from traffic avoiding the toll (4), and the fundamentally negative effects on regional cohesion (5).

1. Legal uncertainty is not good for border regions

Continued legal uncertainty can be detrimental to border regions, particularly when it results in complaints being made to the ECJ. An analysis of the legal studies carried out to date shows that, despite receiving the green light from the European Commission, the ECJ could still issue a negative judgment. In such a case, this would mean years of legal uncertainty, which could create uncertainty for businesses (in terms of investment in the Euregio) and employers (in terms of professional training in the Euregio).

2. German toll is a hindrance to a European solution

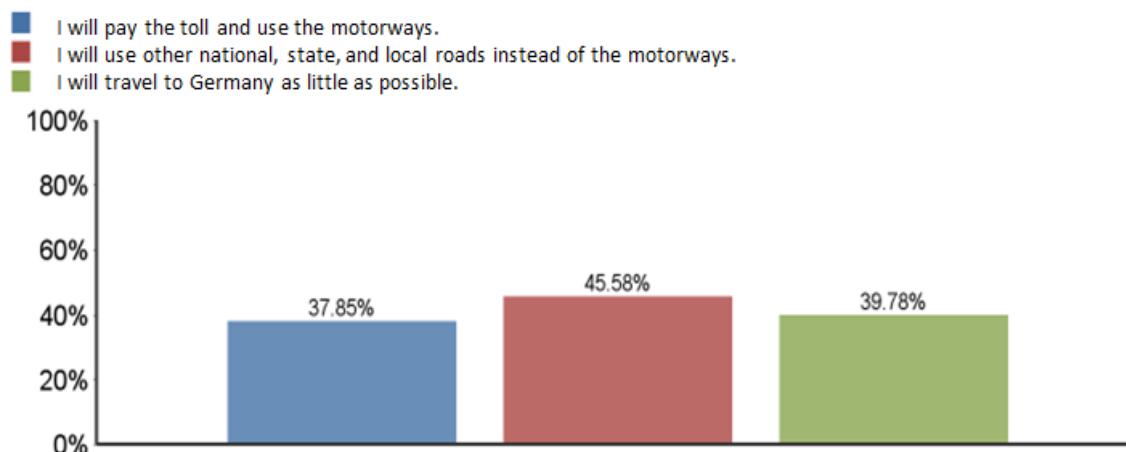
The German toll could, in principle, hinder rather than facilitate the introduction of the uniform EU-wide toll system proposed by the European Commission. It is unlikely that a German government would replace the country's own system just a few years after its controversial introduction (which works on time rather than distance). It is conceivable that there will be a knock-on effect, with Germany’s neighbours introducing their own systems. This could have highly negative consequences on border regions, which will particularly suffer with uncoordinated systems. This problem was recognized by the survey respondents. 63% are against Belgium and/or the Netherlands introducing their own toll and 44% objected to a uniform EU-wide toll system.

3. Change to driving habits with consequences on the economy and labour market

The survey suggests that people from neighbouring countries will change their driving habits as a result of the toll, limiting their journeys to Germany. 40% of respondents said that they will want to drive to Germany as little as possible because of the toll. After the toll is introduced, 11% of respondents who currently cross the border at least once a week will do so less. Out of those who currently cross the border at least once a week, 17% will limit the number of journeys made. The number of respondents who will only travel to Germany every now and then increases by 24%. The survey suggests that retail and tourism will be affected. According to the responses, the main reasons for journeys to Germany are primarily groceries (63%), recreation/leisure/eating out (58%), shopping (46%), and holidays (39%). These figures were corroborated by the assessments of German experts. At the Aquis Plaza shopping centre in Aachen, for example, many customers come from Belgium and the Netherlands – as many as 25% on Saturdays according to a 2016 survey. Businesses on the German side of the border therefore have good reason to fear a loss of revenue if their customer base is reduced.

14% of respondents stated that their place of work was in Germany. 29% cross the border into Germany for business meetings. Cross-border commuters have little chance of avoiding the annual toll fee. Public transport is not an option for most people. Businesses in Belgium and the Netherlands which operate across the border will have to factor in additional costs for the toll. The toll fee scale (older, more polluting cars pay more) suggests that cross-border commuters on a low income (often owning older cars) and small businesses (with few vehicles) will be disproportionately affected. In particular, working in Germany will be made more difficult for employees who have never had any experience with it. For them, the toll represents another financial and administrative barrier. In that respect, the toll can be considered an additional psychological barrier to cross-border work and an open cross-border labour market.

The toll applies to foreign-registered cars on motorways only. What will you do?



4. Change in driving habits can lead to higher emissions and noise in built-up areas

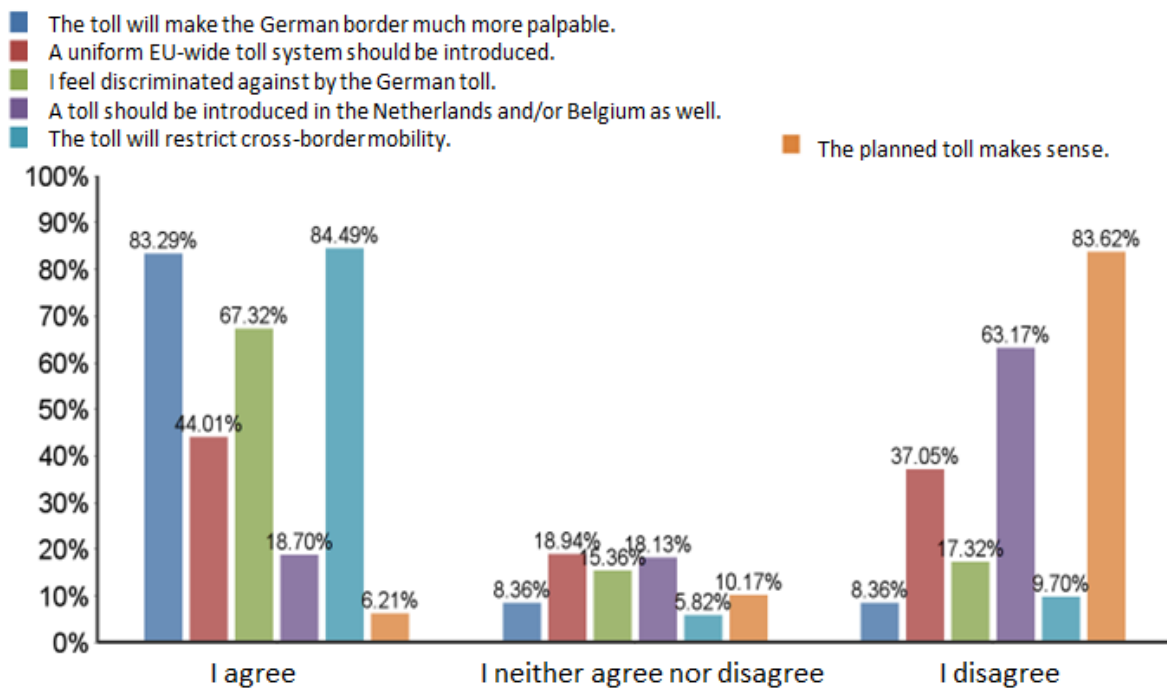
Drivers seeking to avoid the tolls can result in problems for the environment: 46% of respondents intend to use secondary roads once the toll is introduced, so they don't have to pay the toll fee. This could place a considerable burden on frontier communities on both sides of the border in terms of emissions and noise problems. Due to traffic avoiding the toll, there could be a higher burden on local traffic, increasing noise pollution and the risk of an accident. The toll, which was intended as a

measure to protect the environment, could actually end up harming it; the financial incentives to avoid the motorways are higher, especially for people with older cars with higher emissions.

5. Negative effects on Euregional awareness

With the introduction of the toll comes a sort of psychological barrier: 83% of respondents state that the border with Germany will be more palpable with a toll. 84% agree that cross-border mobility will be reduced by the toll. All things considered, the sentiment towards the toll is not a good one: 84% of respondents do not think the toll makes sense; 88% are negative or highly negative towards it. 64% say they feel discriminated against by the toll. This negative reaction in neighbouring countries can have a negative effect on cross-border interaction between citizens, clubs, businesses, and administrations. A key achievement of European integration has been to make border crossings straight-forward and instant. With a toll, people need to decide whether or not to pay it and, if so, for how long. A toll does not make border crossings straight-forward and instant, as border residents would like. Consequently, it could mark a step backwards for cross-border cohesion.

Which of these statements do you agree with?



For what period would you pay the toll?



3.2 Tax Treaty Netherlands-Germany

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The new tax treaty between the Netherlands and Germany entered into effect on 1 January 2016.¹ The cross-border impact assessment 2016 also looked at the border effects of the new tax treaty by examining the amendments to the specific treaty articles on income from employment and pension even more closely.² One of the recommendations in the cross-border impact assessment 2016 was to draw a comparison between the income situation of frontier workers (both Dutch and German ones) and their neighbours and colleagues.³ The cross-border impact assessment 2017 follows up on this point with an ex-post analysis in an early stage of the border effects under the theme of 'European integration'.⁴

Based on the detailed, practice-based calculations produced by [Bol Adviseurs](#), insight is provided into how Dutch and German frontier workers are treated for tax purposes: to what extent are they fiscally treated equally with their colleagues or neighbours under the new tax treaty?

Three scenarios have been produced in order to compare the differences in the net disposable income of German and Dutch frontier workers under the new tax treaty. These comparisons also consider the significance of the two concessions for frontier workers included in the protocol to the new tax treaty: the compensation scheme and the 'Splittingverfahren'.

One of the key conclusions that can be drawn is that there is no longer full parity with neighbours and colleagues under the new treaty. Overall, 'the same pay for the same work in the same place', i.e. an equal net wage, is not achieved merely by bilateral tax treaties between states.⁵ After all, the aim of the tax treaties is to prevent double taxation by distributing tax rights between the Contracting states.

Depending on the scenario, the tax treaty proves to put the frontier workers affected at a disadvantage compared to their neighbours and colleagues. The concession in the form of the compensation scheme does not always seem to provide sufficient relief for Dutch frontier workers.

¹ Bundesgesetzblatt Jahrgang 2012 Teil II no. 38; Tractatenblad van het Koninkrijk der Nederlanden Jaargang 2012, no. 123.

² The cross-border impact assessments on the Tax Treaty Netherlands-Germany can be found on the ITEM website: <<https://www.maastrichtuniversity.nl/nl/onderzoek/instituten/item/onderzoek/studie-grenseffectenbeoordeling#report2016>>.

³ For the recommendations on this point from the ITEM cross-border impact assessment 2016, see [Dossier 1B: Tax Treaty Netherlands-Germany, Pensions \(NL\)](#), p. 38.

⁴ Please note: the specific repercussions for frontier workers and frontier regions still cannot be quantifiably measured since the treaty has only been in force for a year and a half, no coherent data on frontier work has been collected, and the beneficiaries of the treaty had the opportunity to continue enforcing the old treaty in 2016, based on the general transitional scheme (Article 33(6) of the new treaty).

⁵ See also European Commission, Speech 15-6074 by the Commissioner for Employment, Social Affairs and Labour Mobility, Marianne Thyssen (Maynooth University of Ireland, Dublin), 13 November 2015. At: http://europa.eu/rapid/press-release_SPEECH-15-6074_en.htm?locale=en.

Based on the calculations in scenario 1 (one earner plus partner), the compensation scheme seems to improve the position of Dutch frontier workers if they are not married to their partner. In such case, there is a marked increase in net income, while the disparity with neighbours and colleagues is lessened. For German frontier workers, the calculations suggest that the new tax treaty has no effect on the net income of married partners when only one of the partners is earning. It is worth pointing out, however, that German frontier workers generally find themselves in a better tax position than their German neighbours.

Based on the calculations in scenario 2 (two earners), Dutch frontier workers generally find themselves in a worse tax position than their neighbours, more specifically in a lower income bracket. The compensation scheme therefore does not seem to succeed in ensuring sufficient parity between Dutch frontier workers and their neighbours. By contrast, Dutch frontier workers are in a better tax position than their colleagues, partly thanks to the concession under the compensation scheme. German frontier workers, by comparison, are generally in a more favourable tax position than their neighbours. This benefit is both absolute and relatively larger in the low income bracket. Moreover, German frontier workers are in a better tax position than their colleagues in some cases, largely because of the export of German child benefit to the Netherlands.

The calculations under scenario 3 (sole earners) show that Dutch frontier workers are significantly worse off than their neighbours in terms of net income, even though they are entitled to the compensation scheme. However, they are in a better position than their German colleagues from an income perspective. German frontier workers in the Netherlands who are sole earners also do not enjoy any parity and take home significantly more than their German neighbours. Nevertheless, they do have parity with their Dutch colleagues.

Although achieving full parity in the future seems difficult owing to the lack of harmonized national fiscal and social security systems, we believe it is worth keeping an eye on the border effects in this dossier. A quantitative and qualitative data analysis could be carried out to establish the relationship between the treaty and cross-border labour mobility and the effect on sustainable/socio-economic development. The cross-border activities of frontier workers need to be monitored coherently for this purpose, as mentioned in last year's cross-border impact assessment, in order to provide a representative picture of the effects of new legislation on the positions of these persons. Collecting such data coherently will help to make the analysis more representative, allowing us to subsequently evaluate cross-border mobility and, in turn, the success of the European integration project.

3.3 Social security

dr. Saskia Montebovi

In December 2016, the European Commission proposed amendments to EC Regulations 883/2004 and 987/2009.⁶ The purpose of the recast regulations is to *create (more) simple, honest, efficient, and clear rules*, while ensuring that the financial and administrative *burdens are shared amongst Member States more fairly*.⁷ The underlying aim of the update is to make it easier for all employees to enjoy or to continue to enjoy free movement.

The Commission's proposal to amend Regulations 883/2004 and 987/2009 has not yet been definitively adopted, but it will soon be put forward to experts and Member States for further refinement, analysis, and any reformulations. The analysis contained in this cross-border impact assessment is, in that sense, an ex-ante analysis of proposals which have yet to be finalised.

The focus of this report is on the amendments to cross-border social security in the four following areas: long-term care, unemployment benefits, family benefits, and social benefits for EU citizens who are not economically active. There are two ITEM themes tied to each one of these four areas: European integration and Euregional cohesion. Thus, the border effects of each measure can be explained systematically.

An initial analysis centres on European integration and the link to the four areas and the proposed amendments thereto. With regard to *long-term care*, the extension of the rules – with a separate section, definition, and list of care provisions – is welcomed, but the definition still seems to require clarification. With regard to the *unemployment rules*, a number of amendments, some far-reaching, have been made. The most significant amendment is the introduction of the country-of-work principle for frontier workers who are entirely unemployed after having worked in a single Member State for twelve months. This rule still merits further thorough investigation so as to differentiate traditional frontier workers (those who live in one country and work for long periods in another, sometimes for their entire career) from other mobile workers (those who work for short, consecutive periods in different countries or alternate working between two countries). The extension of the export of unemployment benefits and the amendment to the aggregation of unemployment benefits are two other amendments concerning unemployment, the effects of which for the Netherlands appear to be more administration-related and time-bound.

With regard to *child benefits*, a new article has been introduced. This concerns special provisions for income-replacement family benefit for child-raising periods. Given that the Netherlands does not recognize this type of benefit, the direct impact of this is rather limited and it is more about the knowledge of the regulation in other Member States and any modifications to the administration systems.

The fourth amendment affects social benefits for *EU citizens who are not economically active*. With regard to the claim which this group of citizens wishes to make for social benefits without needing to work or be looking for work and without sufficient means to support themselves, the preferred

⁶ These form the basic and implementing regulations for the coordination of social security within the EU.

⁷ See COM(2016) 815 final, p.2-4.

method is to codify a series of judgments by the Court of Justice between 2013 and 2016. The Member States seem to have different ideas about this. There is still difficulty in achieving a community position that underlines European integration and, equally, the free movement directive. While there is a desire to prevent abuse of the free movement of people, other European values must also be upheld.

The second analysis focuses on Euregional cohesion and the effects on the proposed amendments. The effect of each amendment on cooperation between the Member States and government bodies is also examined.

With regard to *long-term care*, the expanded rules provide for an enhanced legal framework and perhaps also better management of cross-border care cases. In the initial phase, the implementation and interpretation of the new rules could well result in some administrative burden or financial costs, but in the long run a duplication of efforts can be prevented and resources can be used more efficiently on both sides of the border.

The *unemployment regulations* are subject to a number of proposals, with the effect expected to be greater than for a number of other unemployment rules. The most significant change also relates to the switch from the country-of-residence principle to the country-of-work principle for frontier workers who are entirely unemployed after having worked in a single Member State for twelve months. For government bodies, this means an increase in the number of applications in the countries of work and a decrease in the countries of residence. The administrative implementation therefore shifts more towards the country of work for this group of workers, resulting in less of a burden for the country of residence. However, other rules apply to workers who are not entirely unemployed or have not worked for twelve months. The question is whether these frontier worker regulations will have a positive or negative effect on cooperation in the Euregion. Consultation, transparent rules and agreements, and understanding each other's viewpoints will improve cooperation between states, specifically between neighbouring countries. Amendments to the export scheme and the aggregation rule probably won't have a huge influence, but could result in administrative changes or burdens. It is not certain whether this is temporary, but this is expected to be the case.

The new provisions for income-replacement *family benefits* for child-raising periods will have a limited effect on cooperation in the Euregion, given that these rules do not apply to the Netherlands.

As for the fourth category – social benefits for *EU citizens who are not economically active* – everything has yet to be fully formulated. This jeopardizes cooperation between the Member States because of the different experiences of Member States as well as fears for the future. It would be sensible to determine a common position on this point, after thoroughly analysing the potential alternatives in the approach further. A common position between Euregional areas would make it consistently easier to handle applications and correctly implement EU rules which underline values such as free movement of people, equal treatment, and sincere cooperation.

3.4 Cross-border (im)mobility of students from third countries in the Euregio Meuse-Rhine⁸

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The internationalization of higher education is currently at the centre of attention of scholars and policy-makers. With a view to make the EU higher education area more attractive for persons coming from outside the EU, specific legislation was adopted already in 2004 in the form of Council Directive 2004/114. This Directive, in turn, is set to be replaced by Directive 2016/801, meant to address some of the shortcomings of the previous Directive.^{9,10} This dossier adds to the existing literature and debate regarding the analysis and evaluation of the student migration policy of the EU and the Member States by taking a Euregional perspective. It was specifically triggered by the adoption of the *Pilot huisvesting Akense niet-EU studenten* by the Netherlands in April 2016.¹¹ This Pilot calls attention to the possible existence of a ‘border region penalty’ for students from third countries as a result of certain assumptions underlying EU, Dutch and German legislation: the concept that frontier migrants are worse off – in the sense of encountering more legal hurdles – than migrants who study, work and live in one and the same Member State, in an otherwise comparable situation.

To establish if such a border region penalty exists, the dossier uses a combination of sociological and legal research methods including desk research, stakeholder interviews and a survey among international students. Combining legal and sociological research methods helps to arrive at a more comprehensive understanding of the current situation regarding the cross-border mobility of students from third countries as well as related challenges and opportunities. The Euregio Meuse-Rhine (EMR), is chosen as the geographical area to be studied, with a focus on the Dutch and German sub-regions. This is because the *Pilot huisvesting Akense niet-EU studenten* is implemented in this region and because the EMR hosts many higher education institutions which are located close to the border and increasingly attract international students from third countries.

Accordingly, it is specified that TCN students in a cross-border situation either live in the Dutch part of the EMR and seek to study in the German part, or vice versa. This is important since education matters are the main responsibility of the German *Länder* rather than central government. The German sub-region of the EMR belongs to the *Land NRW (NRW)* and relevant legislation includes the *NRW Hochschulgesetz*,¹² the *Aufenthaltsgesetz*,¹³ and the *Bundesausbildungsförderungsgesetz*.¹⁴ For

⁸ The authors would like to express their gratitude to all the stakeholders who took time to speak with us and share their knowledge, to the international students who shared their experiences living in a border region by filling in the online survey and to those who helped us implement the survey. Finally, we extend our gratitude to Prof. Melissa Siegel and Martin Unfried for their support along the way and for valuable comments on earlier drafts of this dossier. We would also like to acknowledge the valuable research assistance provided by Alexandra Rodriguez.

⁹ See for instance EMN 2012 http://www.emn.lv/wp-content/uploads/Immigration_of_International_Students_to_the_EU_SR_11April2013_FINAL.pdf or European Commission 2013 Report on application of directive 2004/114 <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0587:FIN:EN:PDF>.

¹⁰ Following these assessments, Directive 2004/114 is soon to be replaced by Directive 2016/801, which must be implemented by 23 May 2018 at the latest.

¹¹ See B11/2.4 Vreemdelingencirculaire 2000.

¹² Gesetz über die Hochschulen des Landes Nordrhein-Westfalen (Hochschulgesetz - HG), GV. NRW. S. 547, as amended.

¹³ BGBl. I S. 162, as amended.

the Netherlands, the relevant legislation is found in the *Wet op het Hoger Onderwijs en Wetenschap* (WHW)¹⁵ as well as the *Vreemdelingenwet 2000*,¹⁶ the *Wet arbeid vreemdelingen*¹⁷ and the *Wet Studiefinanciering 2000*¹⁸ (and the regulations based on these instruments).

Table 1 below sums up the most important findings of the legal analysis based on relevant EU and national legislation. Overall, the ‘cross-border student’ is worse off, legally speaking, when it comes to both residence and work opportunities when compared to a student who studies, resides and works in one and the same Member State (the single state student). Put differently, the applicable EU and national legal framework assumes the single state student paradigm, and creates a set of right and opportunities tailored to that situation, as a result of which the cross-border student misses out. There is, for example, no clear EU admission route for a TCN student seeking to live in one Member State but study in another. Instead, the cross-border student would have to rely on national initiatives to plug the gap, which either may not exist (e.g. in Germany) or may be very limited in scope (such as the *Pilot huisvesting Akense studenten* in the Netherlands). Similarly, the cross-border student enjoys much more limited access rights to employment than the single state student: the appropriate authorities will always perform a full labour market test in case of cross-border employment. Hence, the analysis supports the finding that a border-region penalty for TCN students exists.

Table 1 Comparison of the legal situation of the single state student and the cross-border student

Element	Single state student	Cross-border student	Evaluation
Study	Valid residence permit; educational level requirements	‘Valid residence permit in other MS’; educational level requirement	Position similar
Residence	Harmonised and clear admission route set out in EU law	No direct route under EU law; limited national law possibilities ‘Pilot huisvesting Akense studenten’)	Position cross-border student more restrictive
Work: during	Minimum guaranteed access of 10 hours (15 hours per week)	No guaranteed access: labour market test.	Position cross-border student more restrictive
Work: after	Search period guaranteed under EU law; extended periods available under national law	No search period guaranteed under EU law; some possibilities under national law	Position cross-border student more restrictive

¹⁴ BGBl. I S. 1952; 2012 I S. 197, as amended.

¹⁵ Stb. 1992, 593, as amended.

¹⁶ Stb. 2000, 495, as amended.

¹⁷ Stb. 1994, 959, as amended.

¹⁸ Stb. 2000, 286.

This has negative effects on European integration, socioeconomic development and Euregional cohesion. Indeed, the surveys undertaken as part of this dossier show that third country national students are interested in living in a neighbouring countries, but that visa and residence permit limitations prevent them from doing so. Similarly, where it concerned work across the border, TCN students cited work permit issues as a major factor for not pursuing such opportunities.

Introducing more flexible arrangements for TCN students especially access to the Euregional housing and labour market could convert the negative experiences with 'borders' into positive effects for the students involved, but also for the EMR more generally with regard to short- and long-term socio-economic development. By increasing cross-border mobility, TCN students become more familiar with the region and what it has to offer. This can increase the region's attractiveness for students and graduates, who are important sources of human capital in today's knowledge-based economy. The EMR could thus boost its competitiveness and mitigate the effects of negative population developments and demographic change.

3.5 Belgian Passenger Name Records Regulation

*dr. Johan Adriaensen
Mathijs olde Scheper*

In the aftermath of the terrorist attacks in Paris, Brussels, Berlin, and London, national governments in the EU rushed to implement a series of counter-measures to avoid the repetition of such a tragedy. Many such measures ultimately led to the re-instatement of border controls. The Belgian federal government drafted thirty measures to counter terrorist activity. One of these measures is the gathering of passenger name records for travel into the country. The law obliges rail and bus operators that enter Belgian territory to provide records on the passengers transported to the Belgian intelligence services. Being able to cross-check the passengers' name records with known criminal databases would allow the authorities to identify potential suspects and facilitate the prevention of criminal or terrorist attacks.

The adopted measure originates from the implementation of an EU directive on the retention of passenger name records for flights between member states and non-member states. The novelty of the Belgian initiative is that it not only covers intra-European flights, but -more importantly- that it also targets transportation by land which may affect cross-border regions disproportionately. While the regulation has been approved by the Belgian parliament in December 2016, its implementation awaits the adoption of a series of executive orders.

These orders have been due to the concerns voiced by several stakeholders including the affected service providers, passenger organisations, the European Union, and neighbouring countries. Opposition to the initial proposal already resulted in the exclusion of local cross-border train services as well as bus lines operating under a public service obligation. The executive orders are expected to detail several other sensitive aspects of the regulation such as the information to be transmitted, the method of passenger identification, the time frame and method to submit information to the Passenger Information Unit and so forth. To inform the executive order for rail services, the government has ordered an impact assessment which is expected by the end of 2017.

The specification of these modalities is critical to assess the potential impact of the measure on cross-border mobility as well as to identify any potential conflicts with EU law. Such conflict can be foreseeable on two grounds: conformity with EU laws on data protection and the freedom of movement within the EU. In both cases, the key question will revolve around the measure's proportionality. While the use of passenger name records to protect public security has been accepted by the Court of Justice of the EU as far as international flights are concerned, it remains to be seen whether it is also deemed proportional for passenger services by land. Especially if the passenger name records regulation ultimately results in the introduction of border checks, the obligations under the Schengen accords will be violated.

As far as the expected impact is concerned, we hypothesized and studied four distinct channels through which the regulation affects cross-border mobility. First and foremost, the measure will provide an administrative burden on the service provider. In addition to the ICT costs of operating such a system, the loss of flexibility in the provision of its services (inability to sell tickets over the counter or requirements to arrive 30 minutes before departure) can result in higher ticket prices or

reduced service provision. Interviews additionally showed concern for security of staff and passengers as terrorists could also attack the security check points and security personnel, instead of attacking the trains and busses themselves. Second, as the measure demands the gathering of personal information, passengers might be deterred from using such services as they are in opposition to the collection of their personal data by the government. This could influence the demand for international travel. A third impact of the passenger name records measure pertains to travellers' greater sense of security. This could potentially increase cross-border mobility. Considering the questionable effectiveness of passenger name records on terrorism prevention and considering passengers' limited concern for terrorist attacks, we expect the positive effects of the passenger name records regulation on citizens' mobility to be negligible. A fourth and final effect refers to the opportunity costs that arise from the government's budget allocation to implement the measure. The direct impact of the measure's expected cost of 13.45 million euro on cross-border mobility is – at best – indirect and limited as these costs are borne by the entire population. The costs feature most prominently in debates about the cost-effectiveness of the passenger name records measure as opposed to other preventive measures. Preliminary evidence suggests the existence of several alternatives that fare better in attaining the legislation's objective to prevent terrorist and criminal attacks at a lower societal and financial cost.

Concerns about the legality of the eventual regulation as well as its potential impact on cross-border mobility boil down to questions of proportionality. In the end, the key challenge is to conceive a passenger name records regulation that is both effective in attaining its security objectives while being minimally distortive to cross-border mobility (at a reasonable cost). The revisions made to the original proposals and further refinements introduced through stakeholder consultation have shaven off the rough edges of the proposal. Thus, we have seen carve outs from the regulation for regional cross-border trains and busses operating under a public service obligation. We are equally likely to observe a more calibrated approach to gather and process the solicited passengers' information to avoid legal (and political) contestation through the executive orders implementing the regulation. At the same time, many of these revisions have widened the meshes of the net, making it less effective in addressing the security threats for which the measure was originally designed.

The eventual fate of the Belgian passenger name records regulation – as far as transport by land is concerned – depends to no small extent on the results of the impact assessment ordered by the Belgian government. The specific focus of our study on mobility in a cross-border region allows us to provide several insights that may guide (the reading of) the commissioned impact assessment. First, any impact assessment should ideally cover questions of proportionality if it is to serve the policy process. This is not only important to pre-empt any potential legal conflicts but also to reconcile opposing political views both within government and between the government and affected stakeholders due to implement the measure. Two other recommendations follow: Second, to address questions of proportionality, any impact assessment should give due attention to the welfare effects on the passengers and not just the costs on transporters and government (unlike the Commission's impact assessment on the passenger name records directive). Third, the assessment should ideally cover alternative measures beyond the modality of the passenger name records measure to inform any proportionality test.

3.6 The Qualifying Foreign Taxpayer Obligation (“90% rule”): A Quantitative Ex-Ante Impact Assessment

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Johan van der Valk
dr. Marcel Schaper
Lea Smidt*

The dossier analyses the population of non-resident workers in the Netherlands as of 1 December 2014 to estimate the potential cross-border impact of the qualifying foreign taxpayer obligation (“90% rule”) that took effect on 1 January 2015. The legislation establishes that non-resident taxpayers in the Netherlands may benefit from the same deductions and tax credits as resident taxpayers if they earn 90% of their global income in the Netherlands. It replaces the optional scheme considered incompatible with EU law by a ruling of the Court of Justice of the European Union (CJEU).¹⁹

Under the optional scheme non-resident taxpayers could opt for the same tax treatment as resident taxpayers even if earning less than 90% of their global income in the Netherlands. Under the new scheme, non-resident workers risk forfeiting tax benefits, e.g. mortgage interest deductions for owner occupied dwellings, if they neither earn 90% of their world income in the Netherlands, nor have a sufficient taxable income in their country of residence. The CJEU has established that this legislation infringes on the principles of freedom of movement for workers (Art. 45 TFEU) and of establishment (Art. 49 TFEU) in the EU.²⁰ By providing a statistical overview of non-resident employees in the Netherlands one month before the 90% rule took effect, our ex-ante assessment provides a preliminary benchmark for a measure of the impact of the new tax regime. Future impact assessments can estimate the ex post effects of the legislation on the aforementioned principles of European integration against this benchmark.²¹

Overall, 131.2 thousand employees work but do not live in the Netherlands on 1 December 2014. Of this target group 89.1 thousand are men, 42.0 thousand are women. Furthermore, as most non-resident employees are between 25 and 45 (15.6%) the legislation potentially affects families with younger children. Dutch citizens represent the largest nationality within the population of non-resident workers in the Netherlands (43.4 thousand). They mostly live in Belgium (22.5 thousand) and Germany (16.1 thousand). Another third of non-residents are Polish nationals (42.6 thousand), of which most reside in Poland (41.3 thousand). Thus, Polish residents also constitute the biggest group of non-resident workers in the Netherlands followed by Belgian (38.4 thousand) and German residents (34.3 thousand).

¹⁹ ECJ 18 March 2010, Case-440/08 (Gielen), NTFR 2010/795, Jur.2010. p. I-2323

²⁰ ECJ 09 February 2017, Case C-283/15 (X). See also H. Arts and J. Korving, *De kwalificerende buitenlandse belastingplicht van art. 7.8 IB en het EU-recht*. In: *Grenseffectenrapportage 2016*, Institute for Transnational and Euregional cross border cooperation and Mobility/ITEM, pp. 188-198.

²¹ The data used in this impact assessment comes from Statistics Netherlands (CBS). We identify the target group of the 90% rule by linking processed data from the Municipal records data base (BRP) and the *Polisadministratie*. However, data limitations prevent a definite ex post assessment at this point in time. Firstly, it is only ex ante because tax returns are only complete up until 2014 and not for a sequence of years following the legislation. Secondly, the number of non-residents who claim tax deductions and earn less than 90% of their income in the Netherlands remains a preliminary estimate because tax data on non-residents is not processed at CBS. *Polisadministratie* data excludes self-employed people and information on whether people file a tax return.

German and Belgian citizens likely commute to their work place on a daily basis if they live in the border region. Most of them are full-time employees while Polish residents more often work part-time. A similar ratio applies for Polish nationals compared to all other nationalities. As Poland is not a Dutch border country, this may suggest a high rate of seasonal employment of Polish residents in the Netherlands. Generally, part-time workers less likely earn 90% of their global income in the Netherlands because they may have a source of income in another country to complement their Dutch salary.

Table 1: Number of non-resident employees (in thousands) by country of residence, nationality and employment status

Country of residence			Employment status		Total
			Full-time	Part-time	
Germany	Nationality	NL	9.4	6.7	16.1
		DE	9.5	4.4	14.0
		PL	1.6	1.0	2.6
		Other	945	0.5	1.4
		Missing	0.3	0.0	0.3
	Total		21.7	12.6	34.3
Belgium	Nationality	NL	12.9	9.7	22.5
		BE	8.2	6.1	14.3
		Other	1.0	0.5	1.5
		Missing	0.1	0.1	0.2
	Total		22.1	16.3	38.4
Poland	Nationality	NL	0.4	0.4	0.9
		PL	17.6	22.1	39.7
		Other	0.3	0.4	0.7
		Missing	0.0	0.0	0.0
	Total		18.3	22.9	41.3
Other	Nationality	NL	2.8	1.2	4.0
		Other	6.5	6.6	13.1
		Missing	0.2	0.0	0.2
	Total		9.4	7.8	17.2
Total	Nationality	NL	25.4	18.0	43.4
		DE	10.0	4.9	14.9
		BE	8.3	6.1	14.4
		PL	19.4	23.2	42.6
		Other	7.9	7.3	15.2
		Missing	0.5	0.2	0.7
	Total		71.6	59.6	131.2

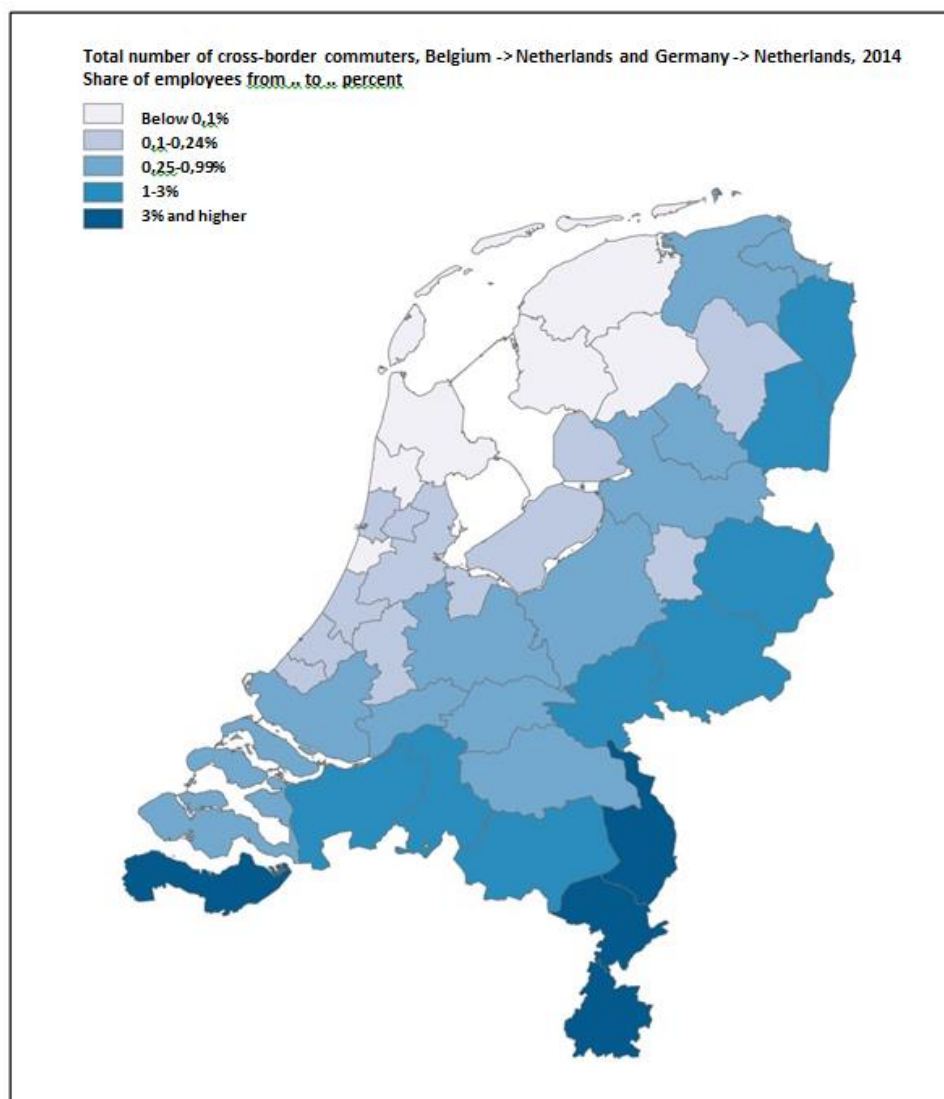
Moreover, the 90% rule has a differential effect across work sectors. Across all nationalities, most non-resident workers are employed in the commercial service sector (65.2%). Yet, a sizable number of Dutch nationals work in the public and social services (68.6%) as well as the industrial

manufacturing sector (38.6%). While the number of Polish nationals is highest in the commercial service sector they represent the major share of agricultural non-resident workers (81.1%).

Especially the border region is concerned by the impact of the 90% rule. The 14 COROP areas along the Dutch-German and Dutch-Belgian border employ the majority of non-resident workers (63.4%). Most of them are Belgian or German residents working in the Southern Netherlands. In particular, Zuid-Limburg employs most non-resident workers in absolute terms (16.7 thousand) and relative to the total employed population in the region (6.6%). Most of them live in Belgium (76%). The relative number of non-resident employees from Germany is highest in Noord-Limburg (3.4%).

In sum, the 90% rule likely reduces the positive effects of EU labour mobility, especially in the Dutch border COROPs. While some workers may be willing to move to the Netherlands, others might seek to change their employer to benefit from tax deductions in their country of residence. Besides counteracting the application of EU rights and principles, this has potentially adverse effects on investment and skills in the border regions.

Commuting non-resident workers from Belgium and Germany as share of total employed population by COROP/NUTS3 region



4. Preliminary Research

4.1 Euregional mindset in two Euregions

*Student Group from Fontys Hogeschool Venlo,
coordinator Christopher Neller*

This student research project, undertaken by a group of students from Fontys Hogeschool Venlo, dealt with the awareness of citizens with respect to the Euregions.²² Further, their knowledge, thinking and emotional attitude regarding the neighbours, institutions, labor markets, etc. is analyzed. This results in the heading 'euregional mindset'. The assumption was that the structure of a Euregion, its general strategic approaches and objectives could have an impact on the specific mindset of the citizens. Do we see big differences in the mindset within and between two different Euregions? In this respect, the Euregio Meuse-Rhine (EMR) and the euregio rhine-meuse-north (ermn) were compared. How do citizens think about the Euregion? What do they know about it and is there a correlation towards the mentioned differences? The aim of the study was to collect some first results in order to stimulate further research.

For this purpose, a survey was conducted in the two Euregions mentioned above to get first ideas on the mindset of the inhabitants. With 204 respondents, the sample size of the survey was relatively small. Therefore, the analysis can only be regarded as a first indication for future research on the topic "Euregional mindset".

Comparing the two Euregions is particularly interesting since they show significant differences. In the first place, there different governance structures are established. In contrast to the ermn including only partners from Germany and the Netherlands, the EMR includes partners from Germany, the Netherlands and Belgium. Whereas in the ermn two languages are spoken (Dutch and German), the EMR deals with three, Dutch, German and French. Further, in the ermn politicians from municipalities and districts next to representatives of the chambers of commerce (German Industrie- und Handelskammern (IHK)) are the active stakeholders in the organization. These are members of the Euregional institution that amongst others decide together about European subsidies for cross-border projects. In contrast, the local level does not play a major role in the EMR but the provinces next to the Belgian community and the Zweckverband Aachen.

1. Euregions and European Integration

The Euregio Meuse-Rhine as well as the euregio rhine-meuse-north base their strategies on the Lisbon Treaty. The euregio rhine-meuse-north set up the Vision 2014-2020+ coming into force on the 31st of October 2013.²³ In spring 2013, the Euregio Meuse-Rhine presented its new strategy EMR2020.²⁴ Both strategies partly cover similar topics but then follow different strategies.²⁵ Both

²² Instead of the term „Euregion“, terms like „Euregio“ or „Euroregion“ can be used. This report uses the term „Euregion“. The term will refer to the institution itself rather than the border-area which is covered by a particular Euregion (cf. Giessen, van der, M. (2014), p.7)

²³ euregio rhine-meuse-north, http://euregio-rmn.de/wp-content/uploads/2016/08/2015-03-17_euregio-Vision_Webversion.compressed.pdf (accessed the 01.06.2017)

²⁴ Euregio Meuse Rhine, <http://www.euregio-mr.com/de/intern/pdf/EMR2020-D.pdf>, (accessed the 01.06.2017)

²⁵ In detail, the euregio rhine-meuse-north follows an integrated approach. The Vision 2014-2020+ covers the topics agribusiness, industry, logistics, tourism/recovery/culture/sport and labor market/education/languages. In comparison,

Euregions want to promote EU-Integration and want to be seen as dynamic and creative European border regions.

Being asked about open borders and the general perception of the EU, the answers of the respondents showed interesting differences between both Euregional areas. According to the survey, respondents in the EMR are more open-minded towards the EU than in the erm. In the EMR, especially the Belgian respondents were most open-minded towards the EU, followed by the Dutch and the Germans. So the difference between the respondents in the EMR and erm is to some extent a result of the fact that in the EMR there are more Europe-minded Belgians. Also in the erm, the Dutch respondents were more in favour of European Integration than the German respondents. As both Euregions just mention to promote the EU Integration but do not set up concrete objectives, it was not possible to make any link between the official objectives of the Euregions and these findings. The general support of European Integration is mentioned in both strategic documents. However, there are interesting research questions for future studies: Are there really differences related to nationality with respect to the general support for European Integration in the Euregions? Or is there a strong correlation between a positive European and Euregional mindset?

In the Lisbon Treaty, it says that deepening the peoples' solidarity while respecting their history, culture and traditions is the key for success.²⁶ Both Euregions officially support the exchange of cultural institutions and want to promote the participation in a lively Euregional cultural programme. The respondents of the survey showed rather low interest in the public institutions of the cross-border regions. In both Euregions, the respondents either never or just infrequently make use of the neighbor's cultural establishments and events, such as museums, libraries, sport events and bicycle routes. This could indicate that in both Euregions, inhabitants do not really use the cultural diversity of the cross-border region. Future studies have to take a closer look and discuss the conditions for stimulating cultural exchange.

In addition, in both Euregions, the Dutch respondents are more likely to speak German and French (according to their self-assessment), still just on a moderate level, than the other citizens. Plus, more Belgians than Germans respondents said that they speak Dutch moderately.

The answers to the surveys also showed that in both Euregions, the Dutch respondents said that they read German literature and use German media-like webpages. This is not the case for the German respondents with respect to Dutch (online) publications. Consequently, language skills could apparently lead to – what is not surprising – the use of media/literature of the neighbor and finally to a more positive Euregional attitude.

EMR2020 deals with the themes economy/innovation, labor market/education/training, culture/tourism, healthcare and safety.

²⁶ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12016M000>

2. Employment and a cross-border labor market

According to the survey results, there is a correlation between language skills and the perception of the neighboring labor market. Especially the Dutch respondents perceive Germany as a country with attractive employers and are open for cross-border labor, which is less true the other way round. Two reports show that there is indeed a cross border labor market and interestingly it is balanced in relation towards the total amount of employees of both countries.²⁷ At the same time, the German and Dutch respondents do not perceive the Belgian labor market as very attractive. Nevertheless, the latest figures (mentioned under footnote 5) show that almost as many Dutch persons cross the border to Belgium for work as to Germany. In relation to the total employees of the compared countries, much more Belgian inhabitants work across the Dutch-Belgian border than Germans cross the border to the Netherlands.²⁸ It has to be investigated in further research, how the perception of the neighboring labor market is in fact influencing labor mobility.

There are also interesting differences with respect to the two Euregions: the respondents living in the erm are on average more open-minded regarding an employment in the neighboring country than in the EMR. In the erm, respondents mention interesting branches as a reason to potentially work in the neighboring country. In contrast, the approach to promote sustainability and innovation seems to bring positive effects in the EMR. Here, both terms are frequently mentioned as reasons to work in the neighboring country. In both Euregions, German respondents perceive the Dutch companies as more sustainable (open for green technologies, etc.) than the other way around. Whereas Dutch respondents consider German companies as more innovative in general than the Dutch.

Future research could investigate whether some of the Euregional projects related to certain branches and industries do have an influence on the perception of the labor market and job opportunities.

3. Euregional Cohesion

Do citizens in the Euregions know in which Euregion they live? In both Euregions, about 60% of the respondents knew the correct answer. In addition, the Dutch respondents were better informed than the others. Especially in EMR, 77% of the Dutch, 54% of German and 50% of the Belgian respondents answered correctly. This is striking since the Belgian respondents were the ones with the strongest support for European Integration. In this case, openness for European Integration and open borders is not necessarily linked to a profound knowledge of the own Euregion.

Is the Euregion as an organization known to the citizen? According to this sample, not really. Almost none of the respondents knew individuals working for the Euregion or representing the Euregion, in both border-regions. This is to some extent more surprising in the erm (euregio rhine-meuse-

²⁷ From all German employees, around 0,072% of the employees are commuting for a job towards the Netherlands. From all Dutch employees 0,074% of the employees are commuting across the border towards Germany. Next to this there is an amount of people who moved across the border and work in their home country as well as in the new country. (See for more information: PBL (2015) Arbeidsmarkt zonder grenzen, p. 10 and CBS- Internationaliseringsmotor 2016 –III Duitsland, p. 25)

²⁸ There are 4800 persons commuting from the Netherlands to Belgium across the border versus 5100 Dutch people crossing the border towards Germany. The percent of Germans crossing the border for work towards the Netherlands is around 0,072%, while 0,39% of the Belgians cross the border towards the Netherlands for work (see reports onder footnote 5).

north) where the municipal politicians play an important role. The Euregions as an organization are not really known to the respondents. Apparently, even the involvement of local politicians (e.g. mayors) in Euregional organizations cannot increase awareness.

Besides, almost none of the respondents attended an event organized by Euregional organizations. Therefore, it will be very interesting to do research on the question how Euregions – as organizations and with their prominent leading figures – reach citizens and whether and how they can promote Euregional thinking by organizing own activities. According to the answers of this Euregional sample, Euregions as organizations are not very visible.

The interviewees were also asked about their perception of Euregional cooperation, their familiarity with Euregional cities/towns, their sense of belonging and whether they feel at home in the Euregion. The results showed that the overall Euregional Cohesion (as a mix of different aspects) is rated a little bit higher by respondents living in the EMR than in the erm. In both Euregions, Dutch respondents express a stronger relation to the Euregion and a stronger Euregional cohesion. In the case of EMR, the survey revealed a significantly stronger perception of Euregional cohesion of Dutch and Belgian respondents than of German. Also in the erm, the answers of German respondents indicate less Euregional affection than their Dutch neighbors.

Comparing the two Euregions, when asked whether they feel at home in the Euregion, respondents from the EMR on average gave lower numbers than in the erm.

Conclusions

This student project has indicated that it is worthwhile to start broader research on the topic of a Euregional mindset. According to the results of this rather small sample, it is interesting to look into the perception of Euregions with the background of different nationalities. The survey indicates that, also in cross-border regions, nationality is still a decisive factor regarding the perception of the Euregion. There are also indications that it is very difficult to find correlations between the different governance structures of the Euregions and the specific mindset of citizens living in these Euregions. One potential reason could be that the Euregion is regarded more as a geographic than a political concept. In future research projects, it would be important to include the question whether the visibility of Euregions (as organizations) and their political figures amongst citizens is really that low. And if yes, it would be interesting to analyze whether this is a problem for the idea of a widespread Euregional mindset.

4.2 Ex-ante analysis of the effects of the General Data Protection Regulation in Limburg

*Student Project by Martin van Rooij,
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In this project, a Maastricht University student did a pre-study on the awareness of the EU General Data Protection Regulation in Limburg. The purpose was to find out whether it is already possible to assess ex ante its effect on enterprises in the border region.

The General Data Protection Regulation,²⁹ hereinafter referred to as GDPR, includes major changes in data handling procedures for public and private organisations within the EU and may also apply to organisations abroad due to its broad and extraterritorial scope. The GDPR encompasses a broad array of changes regarding the security of personal data in the EU. Since the Regulation will enter into force on 25 May 2018, undertakings and public authorities have to prepare for the deadline.

After years of preparation, the EU Parliament approved the GDPR on 14 April 2016 to replace Data Protection Directive 95/46/EC. As a Regulation, the GDPR was designed to harmonize the data protection laws across the European Union. However, the GDPR includes a number of opening clauses, granting Member States leeway regarding the exact implementation of specific provisions of the GDPR. Further, The GDPR touches upon various national legal regimes resulting in potentially differing legal outcomes in different Member States. Therefore, the implementation of the GDPR is and will not be entirely consistent throughout the EU. The question is, whether these discrepancies can lead to uncertainties for organisations with multiple cross-border activities.

In particular, the research tried to establish a preliminary outlook on possible effects the GDPR has and will have on Dutch business in the border-region of the Dutch Province of Limburg.

According to the wording in the GDPR the regulation focuses on:

- reinforcing individuals' rights; strengthening the EU internal market; ensuring stronger enforcement of the rules; streamlining international transfers of personal data and; setting global data protection standards.

The main argument for a coherent EU-wide approach to data protection is to untangle and harmonize the different rules and regulations that became apparent throughout the Union. The ideal situation for business in any country is a common approach without administrative burden, as is described in the Commissions' goals: "Organisations will only have to deal with a single national data protection authority in the EU country where they have their main establishment. Likewise, people can refer to the data protection authority in their country."³⁰ Some of the basic obligations of the Regulation relate inter alia to the nomination of a data protection officer in specific cases, the recognition of binding corporate rules and model clauses for the transfer of personal data to countries outside the EU as one of the means to transfer personal data from the EU to third countries and the introduction a scheme to recognize of Codes of Conduct.

²⁹ Regulation (EU) 2016/679

³⁰ http://europa.eu/rapid/press-release_IP-12-46_en.htm

The findings are based on interviews with business managers in the region, as well as experts on the GDPR in Limburg. A total of 23 interviews were conducted. However, because of the sensitive information discussed, all interviewees agreed to participate on the condition that their commentary was to be discussed anonymously.

Even though the GDPR is a Regulation and should thus be implemented harmoniously throughout the EU, many provisions allow for national legislators to implement exceptions to the rule, which are contained in so-called opening clauses in the GDPR. Any such difference between countries creates a potential obstacle. The issue of compliance with data protection rules is thus a contentious issue for business and experts alike. The 23 qualitative interviews with company representatives and experts in the field³¹ were only a small selection of the numerous companies contacted. Many refused to participate in this research. It is likely that those who did not want to discuss their level of data protection compliance might realize their standards are subpar.

Results from the interviews

Perhaps the most striking aspect that many experts in the field iterated so far is the lack of implementation of the GDPR throughout all different sectors. At the time of the interviews, businesses had less than a year before the GDPR became applicable throughout the EU. One of the reasons why businesses did not seem to hurry with the required changes is because they did not comply with the current legal regime preceding the GDPR.

“Most companies in the region do not adhere to the old rules, why would they comply with the GDPR? The only way to create awareness is to fine them.”

-Anonymous respondent

Others started to create awareness, meaning that they commenced implementation, leading to compliance in the longer term. These were mainly newer companies that are active in the online media sector and thus are closer to the topical debate.

When asked about the exceptions that allow different Member States to implement the GDPR in different ways, none of the respondents seemed to express their concern. In fact, respondents indicated that the current Directive entails many more exceptions, which does not prevent them from trading cross-border.

The pre-study was also meant to ask companies about their positive expectations and the benefits of the Regulation. Due to the abovementioned lack of awareness of the companies interviewed, they were not in a situation to commit a proper self-assessment on the question whether the Regulation will be beneficial for their business.

³¹ Companies from different sectors: privacy consultants and experts, automotive industries, transport companies, marketing companies, healthcare providers, app-builders, several tech start-ups, contractors.

One aspect that was raised was that the cooperation of companies with other companies might have an influence since the enforcement of the Data Protection Authorities is still not very thorough. Especially German businesses are much more aware of privacy concerns and might thus reject potential partners in business in the future if they do not commit to the same level of data protection.

The lack of preparation is cause for concern as it can be expected that a majority of the business in the region will not comply with the GDPR as the deadline comes closer. It was also interesting to note that none of the companies interviewed had been in contact with the appropriate Data Protection Authority.

Since Member States have some freedom regarding some specific aspects of the implementation of the GDPR, it was expected that some issues might arise with respect to cooperating with cross-border business. However, none of the respondents claimed any disadvantage because of it. Experts say it might be because they do not yet realize the full effects and the all-encompassing scope of the Regulation. Others mention that many of these exceptions are so specific in nature that only a very small group of business will be affected.

Conclusions

Many of the companies interviewed are still not taking appropriate measures with respect to the obligations of the Regulation and they are not fully aware of consequences. They find it difficult to make the necessary arrangements. In particular, this means that they do not have a clear picture of the positive or negative effects of the Regulation on their own business when it comes to cross-border business.

“If the government does not act strictly on the companies who fail to implement the GDPR, the only way they [these companies] will comply is if the international business sets a certain standard. The fear of missing out is bigger than risking the fine”

-Anonymous respondent

This pre-study has indicated that broader research on the final situation of the companies in the entire Euregion is necessary in order to assess the state of preparation around the date of the deadline. There are indications that this could in particular be relevant for companies who do business with German counterparts. If their German counterparts are already GDPR compliant, they might expect a similar standard with regard to GDPR compliance of potential business partners. If businesses in the Province of Limburg do not uphold the strict standards of the GDPR, it is possible others might not wish to conduct business with them. It will be interesting to conduct a proper analysis of Dutch, German and Belgian companies in the border regions.

The answers of the small number of companies are to some extent alarming: most companies will probably not be prepared in time for the full implementation date on 25 May 2018. Surprisingly, this does not seem to be a concern for the respective companies so far.

Whether this is because they will not be affected to such a large degree by the changes or because they will only realize the far-reaching implications once they encounter major problems remains to

be seen. The pre-study has shown that further research is necessary to also prevent a scenario where too many companies jeopardize cross-border businesses.

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