



Cross-Border Impact Assessment 2024

Summary



Maastricht University

Cross-Border Impact Assessment 2024

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 regards 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

The Institute for Transnational and Euregional cross border cooperation and Mobility / ITEM makes a scientific contribution to cross-border mobility and cooperation. One of its core activities is to analyse (cross-)border effects in its annual Cross-Border Impact Assessments. Since its creation in 2015, ITEM has conducted nine such regulatory impact assessments. The present report is the latest edition of the Cross-Border Impact Assessment.¹

1.1. European Integration through Better Regulation

Through its Cross-Border Impact Assessment, ITEM offers additional insight into European and national legislative and policy initiatives. ITEM's impact assessment intends to provide a valuable resource for policy makers at the regional, national and European level when they make decisions concerning border regions. In particular, these annual impact assessments support the identification of existing or future (cross-)border effects and thereby contribute to the political debate. Moreover, the results of the individual dossier research also allow timely adjustments to be made to legislative proposals during their adoption phase.

The ITEM regulatory Cross-Border Impact Assessment serves a dual purpose, namely to recognise potential negative or positive effects of planned legislative or policy initiatives *ex ante* and to identify negative or positive cross-border effects of existing policy or legislation in an *ex post* manner (see below). By fulfilling this purpose, the report can contribute to a better *ex ante* and *ex post* evaluation of legislation and policy for the Member States and regional legislators. Furthermore, the method employed in these impact assessments may be of added value to the European Commission's *ex ante* impact assessment and the evaluation of existing legislation. In the publication of the peer-reviewed European Journal of Law Reform, ITEM researchers further explored the applicability within the European policy.² In this context, the European Commission's Directorate-General for Regional and Urban Policy (DG Regio) considered the Cross-Border Impact Assessments carried out by ITEM a good practice in its Communication '*Boosting growth and cohesion in EU border regions*'.³ In that same Communication, the Commission stressed the importance of identifying cross-border impacts in legislative and policy processes and made their assessment an explicit action point.⁴ The later publication '*EU border regions: living laboratories of European integration*' emphasises this again, even within the frameworks of the *Better Regulation* proposals.⁵ Awareness of the relevance of Cross-Border Impact Assessments is also growing at the national level. The Dutch Policy Compass includes 'Border Effects' as a mandatory quality requirement since 2021.⁶ The 2024-2027 coalition programme also reaffirms the approach to border barriers and border regional development.⁷ The German

¹ All ITEM Cross-Border Impact Assessments may be consulted via the ITEM website: www.crossborderitem.eu.

² Unfried, M., Mertens, P., Büttgen, N., & Schneider, H. (2022). Cross-Border Impact Assessment for the EU's border regions. *European Journal of Law Reform*, (1), 47-67. <https://doi.org/10.5553/EJLR/138723702022024001004>

³ Communication from the Commission to the Council and the European Parliament – Boosting growth and cohesion in EU border regions, COM(2017) 534 final, p. 8.

⁴ Ibid.

⁵ Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the regions *EU Border Regions: Living labs of European integration*, COM(2021) 393 final.

⁶ <https://www.kcbr.nl/beleid-en-regelgeving-ontwikkelen/beleidskompas/verplichte-kwaliteitseisen/grenseffecten>

⁷ <https://www.rijksoverheid.nl/regering/regeerprogramma>

Koalitionsvertrag 2021 furthermore talks about legal instruments for the benefit of the border region.⁸ Finally, Flanders has expressed interest in border effects assessment during the Flemish-Dutch summit of January 2023.⁹

1.2. Need for Cross-Border Impact Assessments

The idea is that cross-border effects should ideally be assessed at all levels: European, national and regional. Considering the large number of (cross-)border regions and the diversity of their characteristics, there is only so much European and national level impact assessments can map. This gives rise to the need for supplementary small-scale and bottom-up Cross-Border Impact Assessments conducted by competent actors in specific border regions. These in-depth border specific impact assessments could, in turn, contribute to national and European evaluations identifying the cross-border impact of legislation and policy.

Various instruments aimed at the assessment of cross-border effects exist at the European and national levels. Examples of such initiatives include the European Commission's Regulatory Impact Assessment, the ESPON Territorial Impact Assessment, and the Impact Assessment Toolkit for cross-border cooperation of the Euro-Institut and the Centre for Cross Border Studies. Each of these initiatives has a different focus and objective. ITEM's regulatory Cross-Border Impact Assessment is complementary to such existing evaluations. This complementarity of ITEM's report mainly consists of its particular focus on a designated border region.

Conducting in-depth and border-specific impact assessments may be difficult at the European and even at the national level due to the great differences that exist among European border regions. A 2016 study commissioned by the European Commission highlights the needs of border regions according to their particular features and shows the extent to which border regions differ from one another.¹⁰ Therefore, the existing differences in border regions complicate the exercise of European level Cross-Border Impact Assessments. At the same time, suggesting that in-depth and border specific impact assessments be carried out at the national level by line ministries may also be a difficult proposition, as the diversity of border regions may also be large at the national level. Germany, for example, has nine neighbouring countries comprising numerous cross-border territories.

Despite these challenges, plenty of action is undertaken at the European and the national levels to tackle them. For example, ITEM experts have been involved in DG Regio and ESPON projects, which aim at improving the methodologies for EU level Territorial Impact Assessments focused on cross-border territories. ITEM experts have also published the method in the handbook 'Territorial Impact Assessment'.¹¹ When looking at the national level in the Netherlands, ITEM is further assisting the Dutch government in reviewing how to improve its own policy assessments with regard to border effects. Since 2021, the assessment of border effects is an obligatory part of the general Dutch

⁸ Koalitionsvertrag 2021 'Mehr Fortschritt wagen. Bündnis für Freiheit, Gerechtigkeit und Nachhaltigkeit'

⁹ <https://www.rijksoverheid.nl/documenten/diplomatieke-verklaringen/2023/01/31/slotverklaring-nederlands-vlaamse-regeringstop-2023-door-grenzen-heen-verbonden>

¹⁰ SWECO et al., Collecting solid evidence to assess the needs to be addressed by Interreg cross-border programmes (2015CE160AT044) Final Report 2016, European Commission.

¹¹ Unfried, M., Kortese, L., & Bollen-Vandenboorn, A. H. H. (2020). The bottom-up approach: Experiences with the impact assessment of EU and national legislation in the German, Dutch and Belgian cross-border regions. In E. Medeiros (Ed.), *Territorial Impact Assessment, Advances in Spatial Science* (pp. 103-121). Springer International Publishing. https://doi.org/10.1007/978-3-030-54502-4_6

regulatory assessment scheme, which since 2023 has been converted into the Beleidskompas.¹² Commissioned by the Ministry of Interior, ITEM has developed a guidance document and ITEM is active with organising workshops with governmental officials to discuss the methodology and practical aspects of a cross-border impact assessment. ITEM is in this regard also responsible for the annual monitoring of border effects by the different departments and the final evaluation of the application of the border impact assessment.

Together with partners of the TEIN network of cross-border institutes, ITEM has been discussing possibilities to establish a network of partners who will also conduct assessments in their own cross-border territories.¹³ To advance this idea, the 2020 Cross-Border Impact Assessment included an ITEM-TEIN joined study on border effects in several cross-border regions in Europe for the first time. This edition (2024) also includes a study conducted together with the TEIN network. The 2021 edition also saw productive collaboration. Together with the Euro-Institut and Mission Opérationnelle Transfrontalière (MOT), ITEM was involved in a research project for the German Auswärtiges Amt in autumn 2022. The project seeks an appropriate border impact assessment in the context of Franco-German cooperation, more specifically Article 14 of the Aachen Treaty.¹⁴ In the meeting of 23 October 2023, the Ausschuss für grenzüberschreitende Zusammenarbeit (AGZ) decided to act upon this report by setting up a special working group for border effects assessment.¹⁵

1.3. The “ITEM Method”

Very often, the line between ex-ante and ex-post is not that evident, since the effects of legislation that entered into force years ago are often in practice delayed by transitional periods or administrative delays. In the fields of social security or tax law, moreover, the assessment of the effects of new legislation goes hand in hand with the evaluation of the effects of existing policies and regulations. In addition, a full-fledged policy evaluation of certain policy measures and legislation is often difficult for the lack of cross-border data. This lack of data means that ex post research actually often takes the form of an assessment rather than a profound evaluation.

In this sense, ITEM’s approach observes the general distinction between impact assessment and policy evaluation described by the OECD.¹⁶ This implies that an impact assessment focuses on the prospective effects of the intervention, i.e. what the effects might be, whereas an evaluation is rather likely “to cover a wider range of issues such as the appropriateness of the intervention design, the cost and efficiency of the intervention, its unintended effects and how to use the experience from this intervention to improve the design of future interventions” (ibid). If, therefore, in the course of the

¹² The guidance document can be found on the official site of the Dutch government, i.e. the Integrated Impact Assessment Framework (IAK) for policy and legislation (see Annex): <https://www.kcbr.nl/beleid-en-regelgeving-ontwikkelen/beleidskompas/achtergrond-beleidskompas/verplichte-kwaliteitseisen/grenseffecten>.

¹³ The Transfrontier Euro-Institut Network (TEIN), formed in 2010, brings together 15 partners from 9 border regions in Europe. Its unique feature is that it consists of universities, research institutes and training centres which are dedicated to the practical business of cross-border cooperation in Europe. See: <http://www.transfrontier.eu/>. In October 2019 and October 2020, two TEIN workshops were dedicated to cross-border impact assessment.

¹⁴ ITEM, MOT & Euro-Institut (2022) *Konzeptstudie zur Analyse der Auswirkungen neuer Rechtsvorschriften auf die Grenzregionen*, <https://www.auswaertiges-amt.de/blob/2595406/0bf8fbb3dae396fe69a38e38190aa145/230504-studie-deu-data.pdf>

¹⁵ <https://agz-cct.diplo.de/agz-cct-de/aktuelles/-/2628210>

¹⁶ OECD (2014) *What is impact assessment?* Working Document based on “OECD Directorate for Science, Technology and Innovation (2014), “Assessing the Impact of State Interventions in Research – Techniques, Issues and Solutions”, unpublished manuscript, at 1. Retrieved from: <https://www.oecd.org/sti/inno/What-is-impact-assessment-OECDImpact.pdf>. See also: <https://www.oecd.org/governance/regulatory-policy/>.

ITEM Cross-Border Impact Assessment, legislation is assessed *ex-post*, the assessment is often confined to the question of both the legislation's intended and unintended effects.

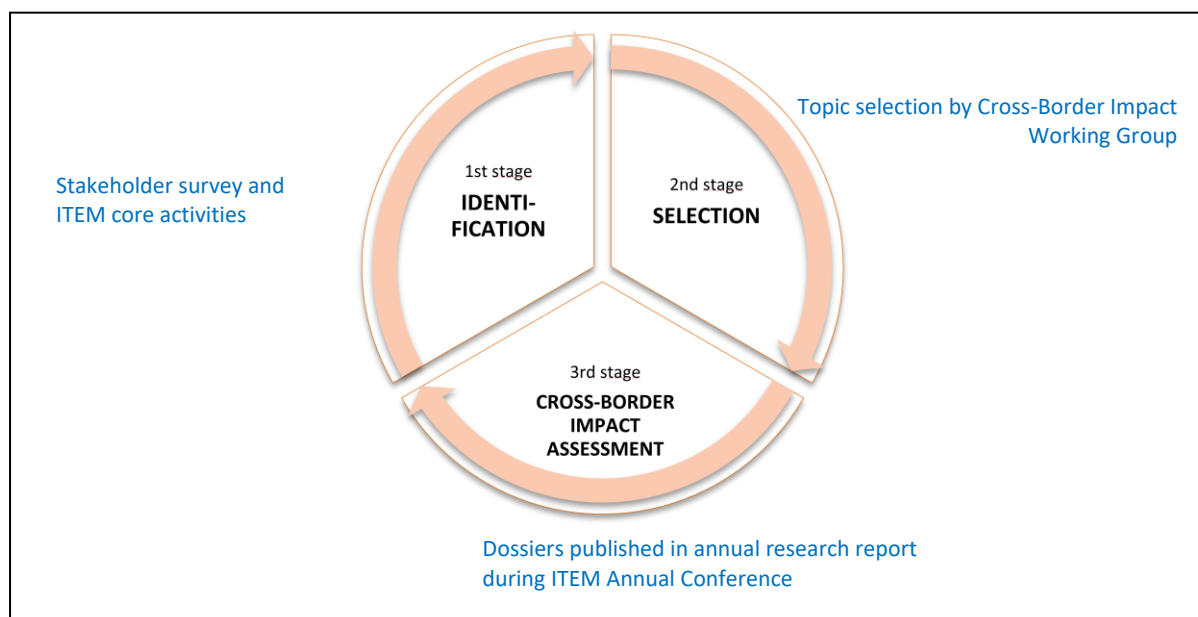
ITEM's annual Cross-Border Impact Assessment thus seeks to cater to the existing need for in-depth and border specific impact assessments by evaluating cross-border effects for a wide variety of topics. The present document contains a summary of the results of the 2024 ITEM Cross-Border Impact Assessment. The assessment consists of six dossiers covering a wide range of topics and researching both existing as well as prospective legislation and policy. This includes both ex-ante analyses with two dossiers studying the effects of proposed laws and policies (Facilitating Cross-Border Solutions, Netherlands-Belgium Tax Treaty). Three dossiers focused on ex-post analysis of legislation. The student (PREMIUM) dossier is an ex-post analysis of a bill "Cannabis-Gesetz". The other two ex-post dossiers focused on Benelux Police Treaty and the impact of recent EU legislation in the field of EU industrial policy. One dossier has a thematic approach, focusing on European cross-border impact assessment and cohesion policy for border regions.

2. Composing the ITEM Cross-Border Impact Assessment: Process and Method

2.1. The Impact Assessment Process

Despite the different topics, researchers of the Cross-Border Impact Assessment each apply the methodology developed by ITEM. The research for the impact assessment comprises three stages (see figure 1 below). In the first stage, the topics to be included in that year's impact assessment are identified by means of a survey which allows stakeholders and other interested parties to inform ITEM about legislation and policy having potential cross-border effects. Apart from this survey, topics are also identified following ITEM's core activities in the annual cycle, among others, when conducting research, undertaking counselling activities, knowledge exchange and trainings. During the second stage, the Cross-Border Impact Working Group assesses the suggested topics. During this assessment phase, the working group (consisting of representatives of partner organisations) focuses on the topicality of the issue, the relationship to ITEM's research focus, the number of requests submitted and the frequency of the issue. Once the topics have been identified, the third step will commence with the selected researchers embarking on their respective impact assessment studies. This research is documented in separate dossiers, which together form the ITEM Cross-Border Impact Assessment of that year.

Figure 1: The ITEM Cross-Border Impact Assessment Cycle

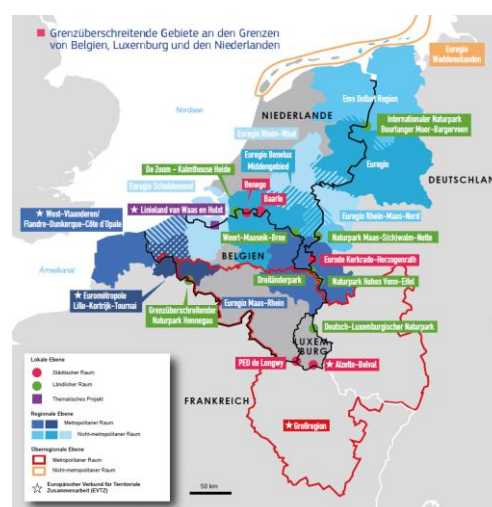


2.2. Applying the Method

Demarcating the Research – What is a Border Region?

Researchers taking part in the Cross-Border Impact Assessment follow the same methodology developed by ITEM, which begins with the definition of the border region. As mentioned above, ITEM aims to fill the existing gap calling for more border specific impact assessments. The borders forming the topic of analysis of the ITEM Cross-Border Impact Assessment are the cross-border areas surrounding the borders of the Netherlands, Belgium and Germany. This concerns a broad definition relating to the whole of the impact assessment. Different topics may call for a different definition of the border. Therefore, this definition will be refined further in the individual dossiers of this report, as appropriate to the subject. The idea underlying this dossier-based definition of the border is that general observation reveals few if any generic causes of the cross-border effects. These issues are rooted in the national implementation of European law, the level of coordination between the neighbouring countries and the way in which certain national legislation or policy is shaped.

Figure 2: Cross-border partnerships BE/NL/DE/LU



Furthermore, it is important to stress that ITEM strives to maintain a truly cross-border perspective in relation to the border region (as opposed to a national one). The choice for such a perspective is a deliberate one, as it avoids the focus being placed on the national perspective. The rationale behind this choice is to avoid a bias favouring one nation's perspective on a certain matter as opposed to representing a genuinely cross-border perspective. In order to represent this perspective as much as possible the starting point for the ITEM Cross-Border Impact Assessment is not only the border region

of the Netherlands, Belgium and Germany, but especially the cross-border Euregions located within that area.

In view of the successful initiation of this method, ITEM remains keen to advance the Cross-Border Impact Assessment-methodology. One ambition is to apply the method also in other border regions across Europe and, thereby, enhance its complementary role vis-à-vis regulatory impact assessments conducted at EU level. Whilst endeavouring to establish a network of partners conducting research dossiers in their own cross-border territories through the Cross-Border Impact Assessment, ITEM is also actively working with partners assessing the impact for other border regions. For example, a joint project between ITEM, Euro-Institut and MOT on a border impact assessment in the Franco-German cooperation was conducted in the fall of 2022. These joined studies offer a unique opportunity to apply and test the methodology of the ITEM Cross-Border Impact Assessment throughout other parts of Europe in close collaboration with our partners equally specialised in cross-border research. In that regard ITEM also often exchanges experiences of border effect assessment with Flemish partners.

Another avenue to engage more regions in border assessment is ITEM's cooperation with the Committee of the Regions. The CoR has established a Reghub network. The intention is to gather a group of regions that are ready to evaluate EU legislation and policy and assess the impact on regional policies. In cooperation with the Reghub secretariat, ITEM contributes to the development of a Reghub questionnaire where it formulates specific questions in relation to border effects.

Furthermore, ITEM devotes itself actively to dissemination of the accumulated experience and methodology. For example, a presentation was made at the meeting of the Nordic Cooperation Delegation of the Danish Parliament with the Danish Minister for Nordic Cooperation in autumn 2024. Also, at the TEIN Conference, the border effects methodology was presented and widely discussed as part of the joint study.

Identifying the Central Research Themes, Principles, Benchmarks, and Indicators

Cross-border effects come in many shapes and forms. The ITEM Cross-Border Impact Assessment focuses on three overarching themes for which cross-border effects are analysed:

- **European integration:** the cross-border impact of certain legislation and policy from the perspective of individuals, associations, and enterprises correlated with the objectives and principles of European Integration (i.e. freedoms, citizenship, and non-discrimination);
- **Socioeconomic/sustainable development:** the cross-border impact of legislation and policy on the development of the economy in the border region;
- **Euregional cohesion:** the cross-border impact of legislation and policy on cohesion and cross-border governance structures in border regions (e.g. cooperation with governmental agencies, private citizens, the business sector, etc.).

The first theme concerns the potential impact of legislation on individuals living and working in cross-border regions. Dossiers focused on European integration consider questions such as the extent to which certain legislative or policy measures violate or foster the principles of non-discrimination and free movement. For instance, the dossier on the new Netherlands-Belgium tax treaty examines the possible effects for Dutch and Belgian frontier workers in light of free movement of workers.

Researchers focusing on the socioeconomic/sustainable development of certain measures adopt a different angle. Their research focuses on questions related to the functioning of the cross-border and Euregional economy and society. This is also the focus of the dossier on the impact of recent EU legislation in the field of EU industrial policy on border regions, looking at whether there are specific aspects that are positive or negative if it comes to industrial activities and investment close to the border and with respect to the business relation in the proximity. Additionally, the dossier on 'Cannabis-Gesetz' looks at how the new legislation will impact tourism trends in the border region.

Finally, researchers may also ask what cross-border effects a certain measure has on Euregional cohesion, meaning cooperation between institutions, business contacts, and the mind-set of cross-border activities amongst citizens. Such aspects play an important role in the assessment of the relationships between the institutions and governance of Euroregions. This is the key focus point on the dossier on 'Facilitating cross-border solutions', comparing the effects of the proposed Regulation on cross-border cooperation and governance on border obstacles across European cross-border regions. The dossier on the new Benelux Police Treaty looks at Euregional cooperation in the specific sector of crime control and prevention.

Table 1: Examples of principles, benchmarks, and indicators

Research themes	Principles	Benchmark	Indicators
European integration	European integration, European citizenship, Non-discrimination	No border controls, open labour market, facilitated recognition of qualifications, adequate 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.
Socioeconomic /Sustainable development	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
Euregional cohesion	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

Dossiers may focus on one of these themes, or all of them, depending on the relevance of the theme for their topic, the scope of their research and the availability of necessary data. The research for the 2024 Cross-Border Impact Assessment not only focused on sources stemming from legislation and policy, but also on empirical data, focus groups, interviews and background talks.

After selecting the research themes pertaining to their dossier, researchers identify the principles relevant to their dossier. These principles subsequently provide the basis for defining benchmark criteria (i.e. what would the ideal situation look like) and ultimately indicators used to review whether legislation or other rules might facilitate or impede best practices. Table 1 above provides examples for principles, benchmarks and indicators for the three research themes of the ITEM Cross-Border Impact Assessment.

The themes do not reveal any specific ranking. Their order depends on the nature of the topic and to what extent it is approachable from all three perspectives. Lack of data or useful qualitative inferences may lead to excluding a theme from the discussion. The choice is left to the individual researchers and how they may weigh each theme within their narrative.

2.3. The Dossiers of the 2024 ITEM Cross-Border Impact Assessment

The survey for this year’s impact assessment was conducted on December 2023 and was set out among ITEM stakeholders and other interested parties. ITEM received numerous written responses to this questionnaire from various partners. Additionally, topics may also arise in the context of ITEM’s day-to-day activities within the ITEM annual cycle. Another route for topical identification is the conduct of a quick scan of policy initiatives or programmes (such as the Dutch coalition agreement), conducted by ITEM. After the dossiers and subjects submitted were screened, the final selection of dossiers was made.

The final dossiers are the result of a fruitful cooperation of ITEM, its researchers and its partners. Table 2 below provides an overview of the research topics of the ITEM Cross-Border Impact Assessment 2024 dossiers.

Table 2: Abstracts of the ITEM Cross-Border Impact Assessment 2024

No	Title	Description
1	Opportunity analysis: European cross-border impact assessment and cohesion policy for border regions	Articles 174 and 175 TFEU stress the importance of territorial cohesion in addition to social and economic cohesion. Nevertheless, the status quo regarding the development of border regions is not enough. On the one hand, the development of border regions is not adequately addressed and facilitated, on the other hand, policies do not sufficiently take into account the position of border regions. The European Commission’s 2021 Communication ‘Joining forces to make better laws’ recognises the need to improve its own Impact Assessment by including, among other things, the perspective of border regions. It is also clear from the European Commission’s various Cohesion Reports that border regions have been hit disproportionately hard by COVID measures, among other things. There is a certain ‘border blindness’, which calls for better place-based policy and legislation. For EU policies and legislation, there is an Impact Assessment

		Toolkit. One of the tools is the Territorial Impact Assessment, which however is not mandatory and therefore not always applied. With the ongoing renewals of the Cohesion Policy, this analysis looks at how EU policy can and should better take into account cross-border regions and which actors should be equipped to do so.
2	Facilitating cross-border solutions across European cross-border regions (ITEM-TEIN study)	On 12 December 2023, the European Commission published the proposal to amend the Regulation on a European Cross-border Mechanism (ECBM). The proposed Regulation will be updated to Facilitating Cross-border Solutions. The aim is to better address border obstacles and, potentially, provide ad hoc solutions. To this end, the regulation establishes national and/or regional Cross-border Coordination Points, designated for better structuring of border obstacles. This case study assesses the effects on border regions in Europe. Some countries already have collaborations and structures, others do not yet. How does the impact differ between border regions? Together with TEIN partners, several border regions are examined and compared.
3	Benelux Police Treaty	On 1 Oct 2023, the new Treaty between Belgium, Luxembourg and the Netherlands on police cooperation entered into force (BENELUX Police Treaty for short). This happened more than five years after the treaty was signed in 2018. The treaty replaces the 20-year-old 2004 treaty on cross-border police action. The question is, in terms of border effects, can this treaty be seen as a particular milestone in border-regional crime fighting? Does it lead to more or better trans-regional cohesion in the border region? Does the treaty contribute to European integration in the area of societal security? How groundbreaking is the Benelux Police Treaty compared to, for example, the 2004 Benelux Police Treaty, the Prüm Treaty, or the Mutual Legal Assistance in Criminal Matters Treaty when it comes to border-regional cooperation in crime fighting? Will the Police Treaty be more effective in border regions than the latter agreements? Based on comparing the above-mentioned treaties, interviews with relevant experts and an analysis of parliamentary documents. Literature and media reports, an attempt will be made to answer the above-mentioned questions.
4	Cross-border Impact of Cannabis-Gesetz (PREMIUM-student study)	On 1 April 2024, the Cannabis-Gesetz is due to enter into force in Germany. The bill legalises cannabis under certain conditions, such as a limit of 25 grams and a maximum of three cannabis plants in the home. It should also allow sales under the umbrella of cannabis clubs. This dossier looks at the border effects of the Cannabis-Gesetz between Germany and the Benelux countries, with a focus on the Netherlands and Belgium. What does this mean for Dutch border municipalities and coffee shops, for example? How do the Netherlands-Germany border regions compare with Belgium-Germany? A multidisciplinary PREMIUM team of master students is conducting the research.
5	The Impact of recent EU legislation in the field of EU industrial policy on border regions	This dossier will assess the impact of EU industrial policy with a view on border regions. It will analyse the current EU strategies on industrial policy and in particular the recently negotiated legislative proposals. <ul style="list-style-type: none"> • European Commission, Proposal for a regulation establishing a framework for ensuring a secure and sustainable supply of critical raw materials, 16 March 2023, COM(2023) 160 • European Commission, Proposal for a regulation on establishing a framework of measures for strengthening Europe's net-zero technology products manufacturing ecosystem ('Net Zero Industry Act'), COM(2023)161

		<ul style="list-style-type: none"> European Commission, Proposal for a Directive on Corporate Sustainability Due Diligence, 2022/0051 (COD) COM/2022/71 final <p>In December 2022, the European Council underlined the importance of an ambitious European industrial policy to make the economy fit for the green and digital transitions and reduce strategic dependencies. The Commission then tabled a communication entitled 'A Green Deal Industrial Plan for the Net-Zero Age' in February 2023 to speed up the net-zero transformation of industry and set Europe on the path towards climate neutrality. Accordingly, the Commission made a proposal for a "critical raw materials act" for the future of EU supply chains. New rules would aim to: increase and diversify the EU's critical raw materials supply, strengthen circularity, including recycling, support research and innovation on resource efficiency and the development of substitutes strengthen the EU's strategic autonomy. In February 2024, the Council and the European Parliament reached a provisional deal on the net-zero industry act. These new rules will facilitate the conditions for investments in green technologies by: simplifying permit granting procedures, supporting strategic projects, based on specific criteria contributing to decarbonisation, facilitating access to markets for net-zero technological products, defining rules for public incentives and enhancing the skills of the European workforce. The objective is to cover 40% of the EU's needs in strategic technology products, such as solar photovoltaic panels, wind turbines, batteries and heat pumps.</p> <p>On 23 February 2022, the Commission published a legislative proposal for a Directive on corporate sustainability due diligence. The proposal aims to foster sustainable and responsible corporate behaviour throughout global value chains. Companies would be required to identify and, where necessary, prevent, end or mitigate adverse impacts of their activities on human rights, such as child labour and exploitation of workers, and on the environment, for example pollution and biodiversity loss.</p> <p>What are the specific effects of these proposals for industry in Dutch, German and Belgian border regions. Are there specific aspects that are positive or negative if it comes to industrial activities and investment close to the border and with respect to the business relation in the proximity?</p>
6	New Netherlands-Belgium tax treaty: an ex-ante assessment	<p>On 21 June 2023, the Netherlands and Belgium signed the new tax treaty. This treaty replaces the 2001 treaty. The new tax treaty is important to prevent double taxation, combat abuse and it resolves some ongoing bottlenecks under the current treaty, including for teachers, professors and athletes and artists. However, other (long-term) bottlenecks, such as taxation of cross-border pensions and home working by frontier workers, have remained untouched. The treaty will be accompanied by a joint explanatory memorandum in due course. After that, the treaty can enter into force; that is expected to be in 2025. This file looks at the ex-ante effects of the new tax treaty for the Dutch-Belgian border region.</p>

3. The Dossiers – in summary

3.1. Dossier 1: European cross-border impact assessment and cohesion policy for border regions

*Pim Mertens
Martin Unfried*

Introduction

Within the European Union (EU), internal border regions represent almost 30% of its territory, home to a fourth of EU's population.¹⁷ While being located at the edge of national borders, border regions act as 'living labs of EU integration'.¹⁸ It is at the internal borders of the EU where European integration is experienced on a daily basis. Interactions take place between different cultures, languages, markets and societies. Yet, the same is true for (national and European) legal and administrative systems. This brings different challenges for policies and legislation to take into account the specific characteristics of cross-border territories. This dossier maps the recent developments when it comes to the treatment of cross-border regions in European policies and legislation and argues what can be done to improve the situation based on literature and research conducted at ITEM.

This is a very important and timely topic. Negotiations about the future of territorial development will be held in the framework of the new political term of the European Parliament and European Commission. More importantly, the entire Cohesion Policy as such will be subject of discussion in the framework of the Cohesion Policy post-2027. As the High-Level Group on the Future of Cohesion Policy (HLG) concludes: "as the EU embarks on this new phase of integration, it encounters a dual challenge: to stay on course with its ambitious global objectives while tackling disparities and rising discontent within its borders."¹⁹ The dossier is structured according to the what, why and how.

What: Territorial Cohesion

Territorial Cohesion is one of the pillars of the European Union, next to social and economic cohesion.²⁰ With territorial cohesion there is the aim to promote a balanced and harmonious territorial development between and within countries and local and regional levels. Cross-border regions are regarded as a specific territorial category, to be stimulated by territorial cohesion. Taking into account the territorial, and thus also cross-border, dimension in policies and legislation is done in an ex-ante and ex-post manner.

¹⁷ European Commission (2024). Ninth report on economic, social and territorial cohesion. Luxembourg: Publications Office of the European Union.

¹⁸ European Commission (2021). 'Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: EU Border Regions: Living labs of European integration', COM(2021) 393 final.

¹⁹ European Commission: Directorate-General for Regional and Urban Policy. (2024). Forging a sustainable future together: cohesion for a competitive and inclusive Europe: report of the High-Level Group on the Future of Cohesion Policy. Luxembourg: Publications Office of the European Union, p. 9.

²⁰ Article 3 TEU and Article 174 TFEU.

Ex-ante

When drafting new policies and legislation, the European Commission has to provide an Impact Assessment. As part of the 'Better regulation toolbox', tool 34 provides guidance on assessing the territorial impact specifically. A territorial impact assessment is voluntary and while cross-border regions could be considered when going through the ESPON TIA Tool, there is no cross-border impact assessment specifically.

Ex-post

Cohesion Policy is one of the main investment instruments of the European Union. Almost a third of the total EU budget was reserved for Cohesion Policy for the period 2021-2027, aiming at strengthening the economic, social and territorial cohesion. Especially important for cross-border regions is the European Territorial Cooperation (ETC), also known as Interreg, under the European Regional Development Fund. While the Cohesion Policy represents a great share of the EU's budget, the Interreg-budget is relatively limited to around 2,5%. Despite the limited budget, the added value of Interreg for cross-border regions and cooperation has been undisputed. It made important contributions to territorial integration, networking, planning, governance and functionality.

Why: persistent cross-border challenges

Despite European Integration, Cohesion Policy and a Single Market, cross-border obstacles in border regions persist. A study commissioned by the European Commission estimated that these border barriers cost around 8,8% GDP in land border regions. There are significant spatial differences, regional GDP losses in certain border regions can be close to 20%. Legal and administrative obstacles not only hamper economic growth, but also social cohesion and sustainable development to name a few.

These cross-border obstacles are illustrative for the need for improvement in the ex-ante and ex-post treatment of cross-border regions in policies and legislation. Regarding the ex-ante impact assessment, the territorial dimension remains voluntary and often limited. The so-called tool 33 was not applied in many legislative proposals and the territorial dimension could be strengthened. It is therefore that the Committee of the Region requested to make the TIA mandatory, and the Territorial Agenda 2030 calls for strengthening the territorial dimension in the European Semester and Impact Assessments. In the latest Better Regulation Communication, the Commission also recognised the need to improve the perspective, among others, cross-border areas in impact assessments.²¹

Ex-post, the current state of affairs also means a critical reflection of the Cohesion Policy and the ETC in particular. The full potential of cross-border policies is not met.²² Despite tangible successes in cross-border territories, there are still significant challenges for the EU to reinforce ETC in both internal and external borders.²³ The CrossQuality project, led by ITEM, also showed that Interreg projects often does not result in sustainable cooperations that support cross-border developments.

²¹ European Commission (2021). Communication from the Commission to the European Parliament and Council, Joining forces to make better laws, available at https://ec.europa.eu/info/files/better-regulation-joining-forces-make-better-laws_en.

²² European Court of Auditors (2021). Interreg cooperation: The potential of the European Union's cross-border regions has not yet been fully unlocked. Special report 2021-14.

²³ Böhm, H. (2023) Reinforcing territorial cooperation and addressing challenges on European integration. Final report to the Group of High-Level specialists of future of cohesion policy.

How: cross-border impact assessment & place-based policies

There is thus a need for improvements in order to foster the development of cross-border territories specifically, both ex-ante and ex-post. This also very much links to the Single Market and its future as brought forward by Letta and Draghi and put on the agenda prominently by President of the Commission, Von der Leyen. In this respect, cohesion policy should be seen as a fundamental element of the Single Market and mutually reinforcing.

Ex-ante: European cross-border impact assessment

Preventing obstacles from emerging of course prevails over solving them ex-post. Therefore, it is recommended that the territorial impact assessment becomes mandatory as is promoted under the umbrella of the principle of 'do not harm cohesion'. Given the fact that cross-border territories deal with consequences of European and national legislation, policies and programmes, the significant economic potential of cross-border regions and their functioning as 'living labs of EU integration', a stronger cross-border dimension in the regulatory impact assessment should be incorporated. The cross-border impact assessment in the Revised Schengen Borders Code is a novelty in this respect.

With a great diversity of cross-border regions, it may be difficult to assess the impacts for national and EU policymakers. Adequate regional and cross-border data are rarely available. An in-depth and border-specific assessment can therefore only be done with close cooperation of stakeholders of the local and regional level in the cross-border territory. Adequate impact assessments requires a multilevel governance approach.²⁴ The European Committee of the Regions and its RegHub are such stakeholders, that could also establish a dedicated network of border regions.

Ex-post: Place-based policies and building capacities

In general the HLG concludes that cohesion policy should become even more of a place-based and transformative policy, sensitive to the needs of (border) regions. Furthermore, there is a need for meaningful simplification and a viable budget. Indeed, the budget for ETC should not be limited to 2,5%, given the fact that internal border regions represent a greater share of EU's territory and population, and a well-functioning cross-border cooperation is key to the current and future challenges to the Single Market. Administrative simplification and active support and measures to overcome the stop-and-go phenomenon can stimulate better cooperative Interreg projects and lasting impacts. In the Interreg period 2021-2027, the specific objective of 'a better cooperation governance' is introduced, but analyses have shown that capacity building related to stable cross-border networks should even be more prioritised. Here, there could be a better focus on realising stable cross-border networks in 'real' cross-border areas. This requires a bottom-up approach from the cross-border territory, where national interests do not overrule cross-border needs. Finally, the cross-border dimension should not only be instrumentalised in the ETC, but be mainstreamed within European and national programmes as well. The cross-border dimension is relevant in many policy domains and to many other territorial categories addressed in Cohesion Policy. Better coordination should overcome this 'border blindness'.

²⁴ Unfried, M., Mertens, P., Büttgen, N., & Schneider, H. (2022). Cross-Border Impact Assessment for the EU's border regions. *European Journal of Law Reform*, (1), 47-67. <https://doi.org/10.5553/EJLR/138723702022024001004>

3.2 Dossier 2: Proposal for an EU Regulation ‘Facilitating cross-border solutions’ – Cross-Border effects across European cross-border regions

Joint research collaboration with Transfrontier Euro-Institut Network (TEIN)

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Introduction

Legal and administrative obstacles across borders present significant challenges for citizens, businesses and institutions in cross-border regions. Obstacles arising from differences in administrative and legal systems are complex and costly, making effective cross-border practices and cooperation difficult to establish. As a result, citizens may have less effective access to services like healthcare compared to citizens living in central areas. A study in 2017 conducted for the European Commission has inventoried 239 legislative and administrative obstacles, categorizing them into three types²⁵:

- EU-related legal obstacles: caused by a specific status of an EU border, European legislation, or the implementation of EU legislation. This could be in fields where the EU has exclusive or shared competency;
- Member State-related legal obstacles: caused by different and/or regional laws, that conflict at the border or with the cross-border reality. In these fields, the EU has no or only limited competence;
- Administrative obstacles: caused by non-willingness, asymmetric cooperation or lack of horizontal, cross-border coordination of policies or practices. They could also be different administrative cultures or languages.

Another commissioned study by the European Commission in 2017 quantified the effects of legal and administrative border obstacles, also addressing the spatial distribution of losses.²⁶ Here, losses due to the border obstacles are found to be even greater among more integrated cross-border regions. This study estimated a total European GDP loss of 458 billion euros (3%) and 6 million jobs (also 3% of the total European employment).²⁷ In a 2021 published report, where border regions are described as ‘living labs of European integration’, the Commission demonstrated the positive effects for both cross-border regions and for the Union as a whole on resolving cross-border obstacles.²⁸ The European

²⁵ Pucher, J., Stumm, T., & Schneidewind, P., *Easing Legal and Administrative Obstacles in EU Border Regions*, Luxembourg: Publications Office of the European Union, 2017.

²⁶ A. Caragliu, R. Capello, R. Camagni, et al., *Quantification of legal and administrative border obstacles in land border regions*, DG REGIO, European Commission, May 2017.

²⁷ *Ibid*, p. 16.

²⁸ ‘EU Border Regions: Living labs of European integration’ COM(2021) 393 final. 2021.

Commission estimates that removing just 20% of these obstacles is estimated to boost GDP by 2% and create over one million jobs in these regions.²⁹

Despite the significant effect that border obstacles present for European cross-border regions, at the EU level, there is no uniform procedure to resolve such barriers. In 2018, the European Commission made an attempt to establish such a procedure by proposing a tool to solve the border obstacles, via the 'European Cross-border Mechanism' (ECBM). The ECBM would allow the application of legal provision in another Member State, in order to overcome a legislative conflict in delivering a joint (cross-border) project. Although a tool of a voluntary nature, the proposal was blocked by the Member States due to concerns about its compatibility principles of subsidiarity and proportionality, the legal basis of the proposal and competences of the EU and the constitutional law of the Member States.³⁰

Yet, a European added value assessment of the European Parliamentary Research Service on a mechanism to resolve legal and administrative obstacles in a cross-border context highlighted the need for EU action to overcome border obstacles.³¹ The status quo would have a tangible negative impact. The assessment also argued that there is no 'one size fits all' approach, since border regions usually face a combination of legal and administrative obstacles and, secondly, different administrative practices across EU border regions. Since the 2018 proposal did not get enough political support in the Council, the European Parliament initiated an legislative-initiative resolution.³² On 14 September 2023, the European Parliament adopted its Resolution with recommendations to the Commission on amending the proposed mechanism to resolve legal and administrative obstacles in a cross-border context.³³ As an Annex to the Resolution, the Parliament also proposed concrete amendments to the regulation under the name of Border Regions' Instrument for Development and Growth in the EU (BRIDGEU).

On 12 December 2023, the European Commission published their amended proposal for a 'Regulation on Facilitating Cross-Border Solutions' (hereinafter: the FCBS Regulation). The FCBS Regulation proposes that Member States set up Cross-border Coordination Points (CBCPs) which would assess border obstacles and act as a 'liaison' between border stakeholders and national authorities. The Member States would then have an option to apply a 'Cross-border Facilitation tool', a voluntary procedure designed to resolve administrative and legal obstacles in cross-border regions. The decision whether to resolve a border obstacle remains the prerogative of the competent national authorities.

Several cross-border regions may already know of similar practises on addressing and solving border obstacles. On the EU level, for instance, the *b-solutions* project already provides a tool and funding for stakeholders to have experts advising solutions for cross-border obstacles. However, on a Member State and regional level there are differences on existing tools and structures for such obstacles. Some countries already have collaborations and structures, others do not yet. The existing structures may also exist only for certain land borders but not to all borders of a given Member State. Therefore, several questions arise as follows:

²⁹ 'Boosting growth and cohesion in EU border regions' COM(2017) 534 final. 2017, p. 6.

³⁰ Amended proposal for a Regulation of the European Parliament and of the Council on a mechanism to resolve legal and administrative obstacles in a cross-border context, COM(2023) 790 final. 2023.

³¹ L. Jancová, C. Kammerhofer-Schlegel, 'Mechanism to resolve legal and administrative obstacles in a cross-border context. European added value assessment', European Parliamentary Research Service, May 2023.

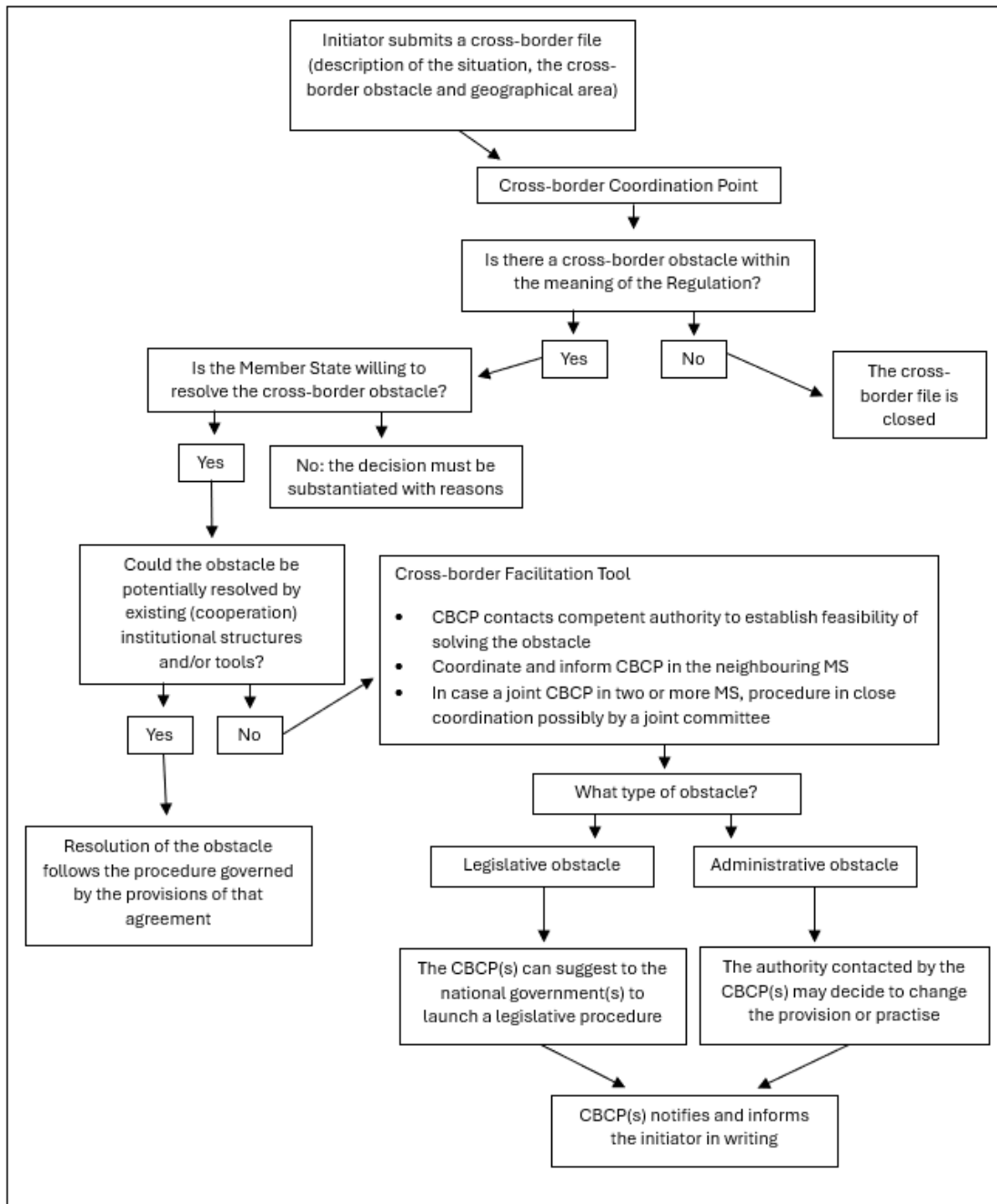
³² In line with Article 225 TFEU.

³³ European Parliament resolution of 14 September 2023 with recommendations to the Commission on amending the proposed mechanism to resolve legal and administrative obstacles in a cross-border context (2022/2194(INL)).

- How does the impact of the proposed FCBS Regulation differ between cross-border regions?
- What does the EU proposal add to the existing practises?
- Does the FCBS Regulation provide more positive outcomes for some regions than others?

Together with TEIN partners, this dossier examines these questions across four different cross-border regions in Europe: the Benelux-Germany, France-Germany, Euroregion Nisa Neisse-Nysa-Nisa (the Czech and the Polish part), and the Austrian and Hungarian suburban region of Bratislava.

Figure 3: Simplified decision-tree of solving cross-border obstacles under the FCBS Regulation



Conclusions

The FCBS Regulation presents a transition from *solving* cross-border obstacles via a legal tool (the ECBM mechanism) to *facilitating* solutions to cross-border obstacles via a common governance structure (Cross-Border Coordination Points, CBCPs). The findings from the case studies reveal significant disparities in the levels of integration and cooperation among regions, with high mobility areas like Benelux-Germany and France-Germany demonstrating structural collaboration compared to regions with limited cross-border frameworks, such as those involving the Hungarian-Slovak-Austrian border region around Bratislava. Despite the differences, the estimated impact of the proposed FCBS Regulation will be positive and provide added value for both types of regions. While the case studies presented significant differences in how far cross-border cooperation was structured and institutionalised, common for the case studies was the high number of legal and administrative obstacles experienced, presenting significant challenges for citizens, businesses and institutions in cross-border regions. While direct quantitative impacts remain to be fully assessed, the potential positive benefits of reducing border obstacles to the socio-economic development of border regions are evident.

The clear benefit of the FCBS Regulation lies in its ability to establish, for the first time, a coordination point that collects and analyses administrative and legal cross-border obstacles, along with a governance framework for addressing them, particularly in border regions that lack such structures. In European border regions where these structures already exist, the FCBS Regulation can enhance cohesion and improve the quality of cooperation by legitimising the functions of existing institutional frameworks and providing them with a more permanent basis. For example, this applies to the Franco-German Cross-Border Cooperation Committee and the pilot coordination point *Schakelpunt* between Flanders (Belgium) and the Netherlands. The presence of these established structures and instruments can further enhance the effectiveness of the FCBS Regulation by bridging the gap created by the lack of a legislative tool for overcoming border obstacles, for example, by the "toolbox" of the Benelux Union offering these needed legal instruments.

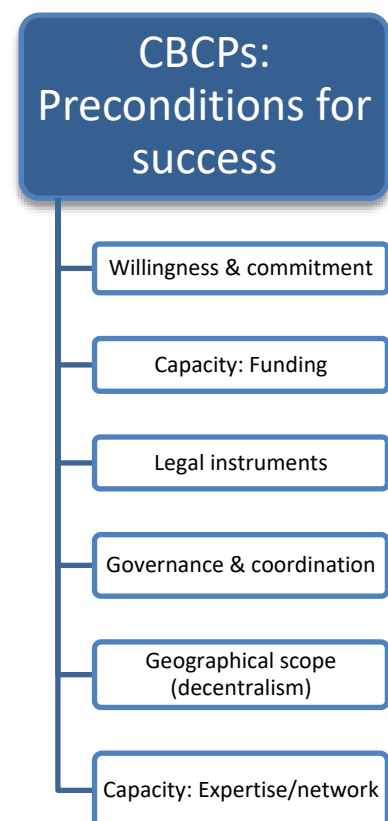
Despite the absence of a legal instrument, the FCBS Regulation establishes new rights for stakeholders affected by cross-border obstacles. The added value of the Regulation is that it establishes a new right for 'initiators' to submit border obstacles and that it requires Member States to provide a reasoned justification for their decision to remove or maintain an obstacle. Even in cross-border regions with high levels of integration and cooperation, this is found to be an added value as a 'one-stop-shop' for cross-border obstacles is not always clearly present. Furthermore, the added value of the FCBS Regulation lies in its wider scope for addressing cross-border obstacles that, while not legal rights violations and potentially not admissible to courts, still hinder the development of projects and services, having the potential to facilitate the free movement rights, and strengthen European integration and internal market by improving the functioning and more rapidly the development of cross-border public services and projects in cross-border regions. Finally, the Regulation presents an opportunity for the creation of a network of coordination points across Europe, enhancing the visibility

of border regions and systematic collection, analysis and elimination of cross-border obstacles at regional, national and European levels. This could also have added value for promoting better-informed policies and legislation regarding cross-border territories.

Nevertheless, the Regulation suffers some drawbacks in leaving significant discretion to Member States regarding its implementation, for instance in relation to the number of coordination points. Furthermore, it remains the prerogative of the Member States' competent authorities to decide whether or not to resolve an obstacle. Given the differences in how Member States may implement the CBCPs and the varying levels of effort and willingness they exhibit in addressing border obstacles, the effectiveness of the Regulation could vary significantly. This concern becomes more pressing if the proposal is amended to eliminate the mandatory requirement for at least one CBCP, making it entirely voluntary, as suggested by informal discussions conducted in the context of this research. Nevertheless, it might be a key to finding enough political support across all Member States to adopt the Regulation. In this sense, the Regulation could function similarly to the EGTC Regulation: while it applies to all Member States, the coordination points and solving border obstacles may be more relevant to some than to others.

These findings result in the following recommendations. To fully realise the potential of the FCBS Regulation, several preconditions must be met for the successful implementation of Cross-Border Coordination Points (see Figure 4). These include the political willingness and commitment of national and regional authorities in the Member States, effective governance and coordination, sufficient capacity in terms of funding, expertise, networks and legal instruments to address and solve border obstacles, and an appropriate balance in the geographical implementation and number of coordination points.

Figure 4:
Recommendations



1. **Willingness & Commitment:** Because of the voluntariness in deciding whether to resolve a border obstacle and the only mandatory requirement to implement one Cross-border Coordination Point under the Regulation, it requires political willingness and commitment from the Member States to implement the Regulation in its full potential and to recognize the importance and economic-social benefits of solving border obstacles. The downfall of existing instruments solving border obstacles, such as *b-solutions*, is that they lack the authority to compel action. Without appropriate competencies, the coordination points will have no added value compared to existing instruments.
2. **Funding:** The FCBS Regulation does not provide a specific budget yet, whereas *b-solutions* and Interreg are funding expertise. If the implementation of Cross-border Coordination Points under the Regulation would be voluntary, (partial) funding from the European Commission — similar to the support provided for *b-solutions* — could provide an incentive for Member States with limited capacity and resources for cross-border cooperation to establish these points and

possibly conduct analyses. This has also been brought forward by the Committee of the Regions.³⁴

- 3. Legal instruments:** A regrettable development in amending the ECBM Regulation to the FCBS is that it no longer provides a legislative tool for overcoming border obstacles, but a 'cross-border facilitation tool' functioning merely as a procedure that authorities can use according to their own national legislation. Existing legal instruments in the regions may enhance the effectiveness of the Regulation and proper solutions to border obstacles. An example is the Benelux-Germany case study, where the 'toolbox' of the Benelux Union offers some legal instruments, or the Aachen Treaty providing legal basis for Franco-German cross-border cooperation and derogations.
- 4. Governance & Coordination:** The FCBS Regulation can help to enhance the quality of cooperation and Euregional cohesion in cross-border regions if the new procedures do not disrupt established governance frameworks and if the new cross-border coordination points are integrated into existing bodies, working in network with all experts and financed. Indeed, cross-border regions with existing structures have further the potential to integrate the coordination points to existing bodies, working in a network with all experts and financed.
- 5. Geographical scope:** Rather than establishing a single centralised Cross-Border Cooperation Point, which is the minimum requirement of the Regulation, implementing multiple, regional Coordination Points — potentially in collaboration with neighbouring countries or regions — can be more effective. This approach provides better regional and local insights, capacity, and expertise, particularly in countries with multiple borders. A local coordination point would also be more visible for citizens and organisations, as currently the experiences with the *Schakelpunt* show. Different implementation models can be identified, ranging from the least advantageous (one central coordination point) to a sufficient option (several regional coordination points), and ultimately to the most optimal scenario (joint regional coordination points established with neighbouring regions in another Member State). Here, it is relevant to consider the governmental structure of each Member State: in federal countries like Germany, Austria, and Belgium, multiple regional CBCPs are likely to function more effectively, while in more centralised states like Hungary, a single coordination point may suffice. Finally, it is important to note that the voluntary implementation of the FCBS Regulation can lead to complications. If one Member State establishes a coordination point while the neighbouring state, where the obstacle originates, does not, it may prove difficult to resolve that obstacle.
- 6. Expertise/network:** an analysis of an obstacle under the FCBS Regulation can serve as a valuable foundation for subsequent dialogue between authorities, especially if such an analysis is not frequently provided. A prerequisite for this is the availability of expertise in and information on cross-border aspects within the region. For example, in the Benelux area, several Cross-Border Information Points, such as INFOBEST in the Upper Rhine region (France-Germany-Switzerland), provide this information, in contrast to the Slovakian-Hungarian border, which lacks such an information point. Additionally, research institutions like ITEM, CESCO, and the Euro-Institut—affiliated with the authors — play a vital role in this network by contributing their expertise through research and proper analyses of obstacles and solutions.

³⁴ Committee of the Regions, Opinion Mechanism to resolve legal and administrative obstacles in a cross-border context – The Cross-Border Facilitation Tool, COTER–VII/037.

3.3 Dossier 3: The Benelux Police Treaty: are border regions becoming safer?

Prof. Dr. Math Noortmann

The answer to the question of whether the Benelux Police Treaty makes border regions safer is largely determined by the manner of (operational) implementation in those border regions. One year after the Benelux Police Treaty came into force, it is still too early to draw conclusions based on "hard" data. However, this does not mean that a number of conclusions cannot be drawn based on the text of the treaty with respect to:

1. The innovative elements contained in the treaty (what is new?)
2. The special nature of the treaty (what is unique?).
3. Convention implementation (what needs attention?).

What's new?

First, the changed title of the treaty. Whereas the 2004 treaty focused on "cross-border police action", the current treaty focuses on "police cooperation". The difference between a focus on "action" or a focus on "cooperation" is essential and reflects how the issue of cross-border crime fighting has changed over the past 20 years. Other notable changes include:

1. The explicit mention of "investigation" as a goal of the Convention, in addition to "prevention and detection."
2. Providing explicit access to various "databases."
3. The introduction of the concept of so-called "Special Units."
4. "Administrative and judicial authorities" are explicitly mentioned as well as the taking of "administrative measures."
5. In addition to joint police centers, joint police stations are now mentioned.

These changes will also have to be actually implemented in order to lead to concrete (measurable) results. Implementation of the Convention, to the extent it has not already begun with, for example, cross-border pursuits (Art. 21), will have to be captured in implementing agreements, implementing legislation and implementing measures.

What is unique?

1. The inclusion of the "administrative measure" (Art. 4) as a means to combat cross-border crime is unique in a "police" treaty. The impact of recognizing the concept of the integral approach in a police treaty cannot be underestimated and will certainly lead to further implementation issues in the future. The Benelux police treaty has opened the door to a trilateral integral approach. It is up to the implementing authorities to open it further and not to slam it shut.
2. The embedding of the treaty in the transnational decision-making structure of the Benelux Union is a second unique element, which first appears in "the manner of application" (Title 7). In particular, Benelux continues to play a role in determining "decisions" (Art. 62 para. 4) and settling disputes (Art. 64). The trilateral "cooperation" therefore takes on a transnational character.
3. Finally, the concept of the "border region" (Articles 1, 6, and 19, and Annex 3) is unique in the sense that few treaties explicitly recognize the special nature of border regions. Within border

regions, cooperating police units and individual police officers can share more information with each other.

What needs attention?

In the Benelux Police Treaty, (1) the exchange of personal data and information and (2) the idea of commonality and collectivity are significant issues that need attention. In the exchange of personal data and information, a difference is made between "direct exchange" (e.g. Articles 6.4, 15.5 and 16.5) and consultation by individual police officers (Articles 15 & 16). In the latter case, the "border region" plays a role as a condition.

Commonality and jointness is used particularly in qualifying: police posts (art. 15), patrols and controls (art. 20), police centers (art. 30), mechanisms for analysis and evaluation (art. 29) and training and exercises (art. 31).

The exchange of personal data and information and the idea of commonality and collectivity will certainly raise implementation questions that require specific attention. In that context, it should also be pointed out that the member states, the Benelux and police forces are working in common on a Benelux monitoring mechanism, which is aimed not only at collecting data for the next treaty amendment, but especially at improving day-to-day practice in cooperation in the fight against cross-border crime in the Benelux.

Conclusion

With the signing of the treaty, we are certainly not there yet. With a partial entry into force, a first step has been taken. The first "judgments" are cautiously positive, but much remains to be done. Further implementation will certainly raise more critical questions. It is therefore advisable to continue working immediately on training such as the 'without care across the border' and not to wait too long with evaluation and monitoring.

3.4 Dossier 4: Effects of the Cannabis Legalisation in Germany on Cross-Border Dynamics (PREMIUM-study)

Lorenzo Neri

Nadja Kulesza

Naud Wetzels

Margaux Furlan

Anne van Heeckeren

Introduction

This study falls within the context of the efforts of the German national government to legalise cannabis up to a certain degree. This topic was widely discussed and debated upon within the government, with an extensive sharing of advantages and disadvantages of such a proposal. Ultimately, the government voted on the proposal and the legalisation came through. This passing of the proposal occurred in the middle of this study, causing the researchers to have to amend the planned analysis of this “proposed” legalisation’s effects. As clear data is, unfortunately, not yet available and therefore not reliable nor valid for this study, the focus was put on receiving input from the public and intriguing individuals in this field by respectively sending out a survey for people living in the Euroregion Meuse-Rhine (EMR) and doing interviews with individuals ranging from a mayor and a police officer to a social scientist, all experts in their respective fields supposedly (in)directly impacted by such a legalisation.

The EMR is known for its cooperation and societal intermingling, also across borders. Moreover, as the EMR is densely populated and harbours three countries in a relatively confined area, it can be expected that a change in German national legislation can have significant impact on the border regions with the Netherlands and Belgium.

Many studies on organised crime are based on data collected in one specific country. Despite the fact that much drug-related organised crime is transnational by nature, many scholars are unable to get access to data in various countries and focus on the situation in their own country. As a result, cross-border aspects of drug trafficking are often neglected.

In addition to this, it is reasonable to infer that in the future, changes will be noticed not only in Germany, but also in other border regions. Ranging from health policies and protection to freedom of movement, drug tourism, addiction and criminal conduct, this paper aims to identify some possible consequences of legalisation of cannabis in Germany, by taking a broad approach and backing up hypotheses with evidence-based insights.

Substantive conclusions

Internal Market and Freedoms of Movement

The EU's internal market principles support labour mobility across member states. However, the economic impact of cannabis legislation in Germany, Belgium, and the Netherlands is currently limited by restrictive cannabis club regulations. These restrictions inhibit the growth of new and existing businesses, dampening potential employment growth compared to more open markets like the U.S.

In the Meuse-Rhine region, labour mobility is primarily driven by broader economic opportunities rather than cannabis legislation. If Germany adopts commercial cannabis sales, it could significantly enhance job prospects and economic activity, benefiting sectors like advertising, communication, and investment. Thus, the potential for cannabis legislation to positively impact labour mobility and economic growth in the region hinges on adopting more commercial-friendly policies.

Health and Protection of Public Health

Germany can learn from successful strategies in Canada, the U.S., and the Netherlands, which focus on education, harm reduction, and community collaboration. For example, Canada uses youth-focused campaigns, the U.S. has state-specific harm reduction strategies, and the Netherlands reinvests cannabis tax revenue into prevention and treatment programs. While Canada maintains strict quality control standards, the Netherlands faces challenges due to its more lenient policies. Germany's legislation enforces strict quality assessments to ensure product safety. Effective strategies include comprehensive education, strong community partnerships, and balanced quality control measures to prevent a shift to the black market.

Criminal Proneness

From a criminological perspective, it is clear that the illegal market will adapt to legalisation, though it will not disappear. Legalisation is unlikely to increase criminal behaviour significantly; however, it may lead to minor deviant conduct and public discomfort. Managing these minor disruptions effectively is essential to maintain public confidence in the new legal framework.

Addiction Prevention

Cannabis legalisation poses public health concerns, especially for adolescents and young adults. Early use can impair academic performance and mental health, and regular use is linked to various health issues, such as respiratory problems and cardiovascular diseases. Legalisation has been associated with increased household cannabis presence and maternal use during pregnancy, potentially affecting child development. While data suggests citizens do not anticipate a significant increase in use post-legalization, there is a strong emphasis on addiction prevention. Germany can mitigate these risks through targeted regulations and educational campaigns.

Tourism

The impact of Germany's cannabis legalisation on drug and coffeeshop tourism in the Netherlands remains uncertain, depending on factors like pricing and ease of cannabis acquisition for Germans. Reduced drug tourism to the Netherlands could lead to decreased economic activity but also less public nuisance. Drug tourism to Germany and Belgium is not expected to change significantly, although it is too early to draw definitive conclusions. Monitoring these trends will be essential for understanding the long-term effects on regional tourism dynamics.

Consumer Protection and Safety

Legal cannabis sales must prioritise consumer well-being and comply with strict consumer protection laws. The potential impact of THC potency on mental health requires further research, as post-legalization data indicates that illegal cannabis is often cheaper and stronger. Border residents anticipate benefits from legalisation in terms of safety through quality control, similar to Dutch governmental cannabis experiments. Germany's legislation, which includes sample testing and safeguarding well-being, suggests that consumers may be more protected under a regulated system.

Economic Development of Border Entrepreneurs

In Limburg, nearly 30 coffee shops near the German and Belgian borders benefit from cross-border customers, boosting local Dutch businesses. German cannabis legalisation might shift this economic benefit to Germany, though the overall impact remains uncertain. Opinions among border residents are cautiously optimistic, while experts hold varied views. Future research should assess the broader economic impact of adjacent cannabis consumption over the long term.

Friendly Neighbourhood and Cross-Border Policy Cooperation

Cross-border cooperation on cannabis legalisation lacks academic scrutiny and political dialogue. Public opinion is divided, but experts call for more information exchange to assess impacts. The mayor of Kerkrade believes that legalisation may reduce criminal revenue, benefiting border residents. Effective cross-border policy cooperation in the EMR-Euregio will depend on cultural affinities and trust-based elements. Enhanced international alignment and comparative learning are crucial for improving cannabis policies and addressing differences in laws and regulations.

Law Enforcement

The cross-border regions of the EMR have developed international mechanisms to enhance law enforcement cooperation against drug trafficking. However, more governmental resources are needed to implement effective systems for sharing information and coordinating operations. Strengthening these mechanisms is essential for addressing the evolving challenges posed by cannabis legalisation.

Social Perception

Opinions on cannabis legalisation are diverse. Supporters emphasise economic benefits, reduced criminalization, and medical uses, while opponents express concerns about youth usage, impaired driving, and workplace safety. Legalisation is likely to shift social perceptions in German society, particularly among younger generations. Concerns about public nuisance and cross-border cannabis tourism persist, though survey data reveals mixed attitudes. There is a slight tendency towards a positive outlook, but significant neutrality and disagreement remain.

In conclusion, Germany's cannabis legalisation has the potential to bring both positive and negative cross-border effects. Careful policy design, continuous monitoring, and international cooperation will be essential to maximise benefits and mitigate risks.

3.5 Dossier 5: New EU legislation in the field of industrial policy

Martin Unfried

Introduction

European industries are often transnational, they operate on various markets within the EU and globally. Nevertheless, there is also a cross-border dimension when it comes to cooperation and coordination of activities in a cross-border territory. It is evident, that in the field of greening economic activities and climate neutrality also cross-border cooperation is at stake. In this impact assessment, the question was whether there are specific opportunities or threats with respect to recent adopted legislation in the field of EU industrial policy. The basic question was whether the territorial dimension of border regions was taken into account when the legislation was made? What are potential effects and opportunities on industries in a border territory if it comes to aspects like European integration, Euregional economic development and cohesion. In this case the geographical area was a broader Benelux area with its neighbours. Since the impact assessment covers three recent legal acts, the approach was to broaden the concept of cross-border cooperation and the geographical scope in order to discuss the potential impact on different industries in this border land.

The legal initiatives

According to the European Commission, climate change and environmental degradation are an existential threat to the EU. To overcome these challenges, the European Green Deal aims at transforming the EU into a modern, resource-efficient and competitive economy, ensuring net emissions of greenhouse gases by 2050 and economic growth decoupled from resource use.³⁵ Against this background, according to the Commission the transition of EU industries must play a crucial role. In February 2023, the Commission tabled a communication entitled ‘A Green Deal Industrial Plan for the Net-Zero Age’ to speed up the net-zero transformation of industry and set Europe on the path towards climate neutrality.³⁶ Accordingly, the Commission made different legislative proposals. In 2024 the “critical raw materials act”³⁷ for the future of EU supply chains was adopted by Council and Parliament. New rules aim to increase and diversify the EU’s critical raw materials supply, strengthen circularity, including recycling, support research and innovation on resource efficiency and the development of substitutes to strengthen the EU’s strategic autonomy. In February 2024, the Council and the European Parliament reached a deal on the net-zero industry act.³⁸ According to the Commission the act will facilitate the conditions for investments in green technologies by simplifying permit granting procedures, supporting strategic projects, based on specific criteria contributing to decarbonisation, facilitating access to markets for net-zero technological products, defining rules for public incentives and enhancing the skills of the European workforce. The objective is to cover 40% of

³⁵ See: https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/european-green-deal_en.

³⁶ Communication from the Commission to the European Parliament, the Council, the European Council, the Council the European Economic and Social Committee and the Committee of the Regions. A Green Deal Industrial Plan for the Net-Zero Age, COM/2023/62 final, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52023DC0062>.

³⁷ European critical raw materials act, Regulation (EU) 2024/1252 of the European Parliament and of the Council of 11 April 2024 establishing a framework for ensuring a secure and sustainable supply of critical raw materials.

³⁸ See: Net-zero industry act (Regulation (EU) 2024/1735), Regulation (EU) 2024/1735 on establishing a framework of measures for strengthening Europe’s net-zero technology manufacturing ecosystem

the EU's needs in strategic technology products, such as solar photovoltaic panels, wind turbines, batteries and heat pumps.

On 25 July 2024, the Directive on corporate sustainability due diligence (Directive 2024/1760) entered into force. The aim of this Directive is to foster sustainable and responsible corporate behaviour in companies' operations and across their global value chains. Member States have to transpose the Directive into national law and communicate the relevant texts to the Commission by 26 July 2026. One year later, the rules will start to apply to the first group of companies, following a staggered approach (with full application on 26 July 2029). The new rules will ensure that companies identify and address adverse human rights and environmental impacts of their actions inside and outside Europe. The intention is that EU rules will provide a uniform legal framework and ensure a level playing field for companies across the EU Single Market.

What are the specific effects of these proposals for industry in Dutch, German and Belgian border regions? Are there specific aspects that are positive or negative if it comes to industrial activities and investment close to the border and with respect to the business relation in the proximity?

Table 3: Research themes, principles, benchmarks, and assessment of cross-border effects and opportunities

Theme	Principles	Benchmarks	Indicator- results
Euregional Cohesion	<p>Good cooperation and coordination of industrial activities in the border region.</p> <p>Capacity building for industrial cross-border clusters.</p> <p>Cooperation and coordination in the field of raw materials and zero industry technologies.</p>	<p>Industrial cooperation in a non-border situation</p> <p>National clusters versus cross-border clusters</p> <p>Transnational value chain versus Euregional value chain.</p>	<p>There are hardly any initiatives for cross-border clusters or strategies with respect to the content of the three legal acts. However, there is space to develop a specific cross-border approach.</p> <p>Opportunities are evident in with respect to cross-border clusters the field of raw materials, but they have to be actively financially supported by governments in NL/BE/DE/LUX.</p> <p>The proposed legislative acts do not explicitly promote cross-border industry cooperation. The territorial dimension of border regions was not assessed or emphasized.</p> <p>National strategies are in the first place taking account of transnational activities but of Euregional cohesion.</p>
European Integration	<p>Article 173 of the Treaty on the Functioning of the European Union (TFEU).</p> <p>EU industrial policy is specifically aimed at: (1) 'speeding up the adjustment of industry to structural changes'; (2) 'encouraging an environment favourable to initiative and to the development of undertakings throughout the Union, particularly small and medium-sized undertakings'; (3) 'encouraging an environment favourable to cooperation between undertakings'; and (4) 'fostering better exploitation of the industrial potential of policies of innovation, research and technological development' (Article 173 TFEU).</p>	<p>National policies with respect to the implementation of the legal acts.</p> <p>For instance, German "Lieferkettensorgfaltspflichtengesetz" and the coordination of the transposition of the Corporate Due Diligence Directive.</p>	<p>The Corporate Due Diligence, the Raw Material Act and the Zero Industry Act go beyond present national legislation and offer instruments for stronger Benelux or Euregional cooperation.</p> <p>In the field of the Corporate Due Diligence Directive, German existing legislation offers already first experiences.</p> <p>BE/DE/NL/LUX could establish a working group to coordinate the national implementation process in order to avoid frictions for the cross-border activities of industries.</p>
Sustainable Development/Socio-Economic Development	<p>The Benelux provides a platform to coordinate exchanges and projects in the field of a circular economy and can play a pioneering role within the European</p>	<p>Impact of industrial policy on the socio-economic situation non-border regions.</p> <p>The situation of border regions before the new</p>	<p>Cross-border added-value?</p> <p>So far, it is not evident whether the government's aim at specific cross-border cooperation with respect to material, circular economy, corporate diligence. There are obvious opportunities</p>

	circular economy programme.	legislation was adopted (zero/material/diligence). Impact on the policy on the main sectors in order territories in the Benelux/Neighbouring Countries	to strengthen industrial cooperation in border regions. Benelux countries/plus Germany could for instance designate net-zero Acceleration Valleys as specific areas to accelerate net-zero industrial activities, in particular to accelerate the implementation of net-zero technology manufacturing projects.
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Own compilation

The current strategic cooperation agreements on the stimulation of specific industrial products or technologies are in the Benelux area still in an early stage. First documents as the “Benelux Green Deal for Carbon Neutrality with focus on CCSU and Hydrogen”³⁹ or the “Hyperloop in the Benelux: Opportunities for cross-border connectivity and high-tech cluster development” are good starting points.⁴⁰ In addition, there are bilateral agreements on hydrogen production and transport and offshore wind.⁴¹ The different objectives and sector of the net-zero industry act could be a common framework for a broader cooperation. There could be for instance a joint initiative on the simplifying permit granting procedures where the obligations of the regulation could be applied in pilot projects and experiences shared across the borders. Benelux countries/plus DE could for instance designate cross-border net-zero Acceleration Valleys as specific areas to accelerate net-zero industrial activities, in particular to accelerate the implementation of net-zero technology manufacturing projects. It has to be discussed whether cross-border locations as North-Sea Port or Avantis could be designated as cross-border Acceleration Valleys. The objectives of the Valleys shall be to create clusters of net-zero industrial activity and to further streamline administrative procedures.

The Raw material act could be a window of opportunity for cooperation across the border in the Benelux area. It sets benchmarks for domestic capacities along the strategic raw material supply chain to be reached by 2030. The recycling of raw materials could be promoted in a coordinated way by national means by the neighbouring countries to develop a strong secondary market. This could also be achieved by a joint Benelux/Germany/France strategy on the recovery of critical raw materials from extractive waste facilities. The Benelux with its neighbours could become a frontrunner with respect to certification schemes and mutual recognition to increase the sustainability of critical raw materials on the EU market. Industry representatives recommend chain dialogues to get things going, to overcome the risk that companies in a chain keep waiting for each other while everyone would like to move in the same direction. The Benelux could search for agreements with the neighbours to give activities with raw materials produced and recycled in Europe priority in licensing processes and preferential access to financial instruments.

³⁹ See: <https://www.beneluxbusinessroundtable.org/wp-content/uploads/2020/11/Benelux-Green-Deal-for-Carbon-Neutrality-4.pdf>.

⁴⁰ <https://www.benelux.int/nl/publication/hyperloop-in-the-benelux-opportunities-for-cross-border-connectivity-and-high-tech-cluster-development-2/>.

⁴¹ See for instance the agreements of the North Seas Energy Cooperation; <https://www.rvo.nl/onderwerpen/windenergie-op-zee/internationale-samenwerking>.

So far, in the Benelux and the neighbouring area national rules on corporate, sustainability-related due diligence obligations are fragmented. This slows down the take-up of good practices and the exchange of practices across the borders. Stand-alone measures by some Member States (as in the case of Germany) are not helping companies to exploit their full potential. With the Corporate Due Diligence Directive, the Member States have now the opportunity to transpose the EU directive in a way, that their practice is streamlined, and administrative or other obstacles are avoided. The Benelux countries with their neighbours should use the time until 2026 to coordinate the transposition into national and regional legislation and avoid cross-border administrative frictions. A joint initiative coordinated by the Benelux Union could bring together the responsible ministries in charge of the transposition process.

3.6 Dossier 6: New Netherlands-Belgium tax treaty (2023): an ex-ante assessment

Dr. Bastiaan Didden - in a personal capacity

Dr. Sander Kramer

On June 21, 2023, the new Netherlands-Belgium tax treaty was signed. Currently (October 2024) this parliamentary discussion has not yet taken place and the concrete entry into force date is not yet known. Although the joint article-by-article explanation is not yet made available, a first comparison can already be made - based on the treaty text - between the new tax treaty and the current tax treaty.

Based on a brief *ex ante* consideration of the relevant treaty provisions pertaining to international employment, the possible effects of the new tax treaty for a Dutch and Belgian frontier worker compared to the current treaty are described. The focus is on the employee, civil servant and director-major shareholder residing in one of the two countries and working in the other. In doing so, consideration has also been given - where possible - to the test of "equality in the street" and "equality in the workplace" as well. The assessment serves as an indication of the free movement of workers as understood under the central theme of this report: 'European integration'. Based on this analysis, it appears that income effects remain unchanged under most provisions of the new treaty, apart from any changes in national tax law (e.g., tax base, tax rate).

With regard to athletes and artists; and teachers and professors, under the current treaty they experience bottlenecks that are administrative in nature, or they are confronted with incoordination between social security payments and fiscal contributions. With regard to professors, one of the recommendations from the report of the Committee on Frontier Workers has been followed up.⁴² In the new treaty, the Netherlands' efforts seem to have been adopted in the sense that an artist and sportsman provision is missing. For the determination of the right to tax on the income of artists and sportsmen under the new treaty, depending on the position (self-employed/non-employed), fall back on Article 7 in conjunction with Article 5 or Article 14 of the new treaty, respectively. Repealing the artist and sportsman provision can have income effects for the individuals concerned, since the tax does not necessarily accrue to the temporary state of employment. This depends on the tax regulations in force in the competent country, e.g. determination of tax base, level of tax rate, etc. The professor article has been deleted in the new tax treaty. Under Article 20, paragraph 1 of the old treaty, income of professors and other members of the teaching staff, were exempt from taxation in the state of employment for up to two years ("temporary work"). Under the new treaty provision, the taxing right on income earned by teachers and professors working across borders is allocated to the country where they work. The new treaty removes this cross-border bottleneck and creates more equality in the workplace.

With respect to other workers, bearing in mind the closed system of employment benefits (Articles 15 to 19 OECD Model Convention), no or limited changes have been made in the new treaty. The bottleneck experienced by employees who work from home and the provision of clarity has not been

⁴² Report of the Committee on Frontier Workers, *Frontier Workers in Europe; An examination of tax, social insurance and pension aspects of cross-border working* (Papers of the Tax Science Association no. 257), Tax Science Association 2017.

addressed by the new treaty to this extent in relation to Belgium. However, the situation of frontier workers working from home is still under discussion between the Netherlands and Belgium. It has been decided not to let the signing of this treaty wait until these discussions are completed. Such an agreement will then be implemented in the tax treaty via an amending protocol. Moreover, in the tax treaties with Germany and Belgium, the Netherlands strives to achieve as much 'equality in the street' and 'equality in the workplace' for frontier workers as possible, and to prevent dis-coordination between tax and contributions where possible. The Netherlands is also pushing for this during treaty negotiations when it comes to working from home across the border.

One of the most discussed provisions in the current treaty is the pension provision. This relates in particular to the conditions of application of the conditional withholding tax as laid down in paragraph 2(b). The question often focused on whether and to what extent the right to levy tax on Dutch pensions received by a Belgian resident was allocated to the Netherlands as source state. Considering the discussion on this provision, also in case law, it is surprising that this provision has not been amended at all. Given the similar treaty text, no direct income effects are to be expected compared to the current treaty. That the discussion regarding paragraph 2(b) will return in part is not entirely unlikely.

The general compensation scheme, aimed at residents of the Netherlands working in Belgium, strives to achieve equality with the neighbour. The retention of the compensation scheme in the new treaty can be called positive. However, the question remains to what extent there is equality with the neighbour in the street in the mirror image situation (Belgian cross-border worker, working in the Netherlands). It is possible that Belgium did not consider this appropriate because of the multitude of neighbouring countries, but this cannot be stated with certainty. Further possible border effects cannot be determined until the publication of the article-by-article commentary on the 2023 treaty.

Table 4: Central research themes, principles, benchmarks and indicators

Research theme	Principles	Benchmarks	Indicators
European Integration	<p>Free travel and accommodation ex Art. 21 TFEU in conjunction with Directive 2004/38/EC Regarding the right of free traffic and residence on the territory of the member states for citizens of the Union and their family members, Pb.L. June 29 2004, vol. 229, 35;</p> <p>Free movement of workers ex. art. 45 TFEU; Freedom of self-employment ex art. 49 TFEU; non-discrimination</p>	<p>No discriminatory treatment of frontier worker</p> <p>Equality with the colleague (equality on the workplace)</p>	<p>A <u>general comparison</u> of the changes between the old and new tax treaty affecting frontier workers.</p> <p>Comparison between resident and nonresident taxpayers; Is there a obstruction of the freedom to live outside of Belgium and the Netherlands, respectively?</p>
	<p>International Law: a. Purpose of the tax treaty: prevention of juridical double taxation. b. Art. 26 Treaty NL-BEL, non-discrimination.</p>	<p>No legal double taxation: one object (earned income) and one subject (frontier worker) are taxed by two states.</p>	<p>Examine under what circumstances the new tax treaty results in double taxation or double non-taxation.</p>

4. List of researchers

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5. Annex – The ITEM Cross-Border Impact Assessment as a basis for action: Looking back at the follow-up activities of the ITEM Cross-Border Impact Assessments 2016 till 2023

Border effects affecting living and working in cross-border regions in Europe have in recent years rarely been so hard felt as during the COVID-19 pandemic and the national containment measures that were imposed. The descent into pro-longed crisis mode has underlined the value of mapping and analysing these effects regarding their repercussions for cross-border mobility and cooperation.⁴³ The demand for such analysis as a basis for furthering cross-border projects, the transnational cooperation between public authorities and facilitating cross-border work and business is growing. As the European Commission has recently highlighted “Living labs of European integration”-character of the EU Border Regions:

‘Although border regions are often geographically peripheral and rural, they are places with a high potential for economic growth, encouraged by their cultural and linguistic diversity, complementary competitive advantages, unspoilt nature and less trodden tourism destinations. Their distance from the core can often be compensated by cross-border exchanges with neighbours, cooperation and joint action. For this to happen, border regions need to be at the forefront of and fully benefit from European integration.’⁴⁴

One of ITEM’s core tasks is to carry out yearly Cross-Border Impact Assessments. With these assessments, ITEM strives to give insight into the effects of new legislation and policy on border regions and on how existing law and policy affect border regions. Since its creation in 2015, by 2025 ITEM will have effectively conducted a total of 57 Cross-Border Impact Assessments. The assessments encompass a diverse range of themes, including cross-border labour markets, healthcare, mobility and infrastructure, security, energy transition, social security, pensions and taxation, Euregional governance, and broad prosperity in border regions. Throughout the past decade, ITEM Cross-Border Impact Assessments have been able to provide a basis for further action and research aimed at improving cross-border mobility and cooperation.

Already the 2017 and 2018 assessments provided a broad basis for action. The Dossiers on Social Security led to follow-up actions. For instance, ITEM provided input to the European Parliament rapporteur on the Posted Worker’s Directive. In the case of the dossier on different retirement ages, Belgian cross-border workers who worked in the Netherlands, faced a financial gap at the age of 65 in the case of unemployment due to the later retirement age in the Netherlands. The Belgian legislator corrected that in December 2018 and made it possible that affected employees could receive unemployment benefits also after they reached the age of 65 (*Koninklijk Besluit d.d. 12 december 2018*). ITEM has also developed follow-up activities with respect to the social security of non-standard

⁴³ See, for example, Online ITEM & HNP Side Event “How to prevent the return of national borders in a future pandemic and crisis situation – Multilevel governance in a practical way”, Brussels, 13 October 2021.

⁴⁴ Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on ‘EU Border Regions: Living labs of European integration’, COM(2021) 393 final, Brussels, 14 July 2021 at 14.

work in cross-border situations. The Committee for Social Affairs and Employment (SZW) of the Dutch Senate in summer 2019 sent a letter the Dutch Minister for Social Affairs pleading towards the Government for dealing with concrete cross-border problems that specifically frontier workers are facing in daily life. The Committee warned, for instance, about the lack of cross-border coordination between social security- and tax regimes. The ITEM Cross-Border Impact Assessment has provided the backbone to this plea. The dossier of 2019 on the effects of the Dutch Act on the Legal Status of Civil Servants also resulted in parliamentary questions of the Committee. Additionally, the Administrative Jurisdiction Division of the Dutch Council of State ruled that denying cross-border workers access to DigiD constitutes discrimination. This court case, prepared with the help of the ITEM Expertise Centre, directly contributed to the Dutch government reviewing its access policy to online public services.

Furthermore, the legal analysis included in the ITEM Cross-Border Impact Assessment dossier on the German car toll proposal of 2017, in turn, partly contributed to the decision of the Netherlands to join Austria in a claim against Germany before the Court of Justice of the European Union. In line with ITEM's analysis, in June 2019, the Court found that the infrastructure use charge, in combination with the relief from motor vehicle tax enjoyed by the owners of vehicles registered in Germany, constitutes indirect discrimination on grounds of nationality and was in breach of the principles of the free movement of goods and of the freedom to provide services (Case C-591/17 Austria v German). Following ITEM's conclusion in the 2018 assessment of the German "*Baukindergeld*" (Housing grants for buyers) that it was likely that cross-border workers working in Germany but living abroad would have to be eligible for the German grant. In July 2019, Pascal Arimont, a Belgian Member of the European Parliament, formulated a related question to the Commission (E-002147-19) based on the same assumption. The background was, that on 7 March 2019, the Commission decided to send a reasoned opinion to Germany in response to its refusal to grant another benefit, the *Wohnungsbauprämie* (housing premium) to cross-border workers. Whether these grants may be extended to cross-border workers even if the property is outside Germany became a subject of assessment.

The dossier of 2018 on the cross-border effects of the increase of the low VAT rate in the Netherlands was often referred to in parliamentary letters when it comes to cross-border effects of changes in VAT rates or excise duties. As to the research results of the Cross-Border Impact Assessment of 2020, ITEM organised three (online) workshops in the second half of the year. The first joined impact assessment project conducted together with three other cross-border research institutes - Euro-Institut Kehl, Centre for Cross-border Studies in Northern Ireland and the B/ORDERS IN MOTION-Center of Viadrina University in Frankfurt/Oder - gained particular prominence. This joined study examined the effects of the national COVID-19 crisis management on particular cross-border regions. It also served as a successful test of applying the methodology developed by ITEM in other cross-border regions in the EU. First results were presented at an official event of the European Days of Regions and Cities in Brussels, co-organized by ITEM and its partner institutes from the TEIN network.⁴⁵ ITEM and the TEIN-partners later presented the full study in an international workshop in November 2020, discussing the results amongst others with the European Commission and a member of the Provincial-Executive of

⁴⁵ TEIN-ITEM workshop on cross-border impact assessment (with a special focus on Coronavirus crisis management) as part of the (web) sessions of the DG Regio Open Days in October 2020. See also the presentation of M. Unfried 'Effects on Cross-border territories: The blind spot of regulatory impact assessment' at the TEIN Annual Conference 'Assessing impact across borders' (incorporating the Centre for Cross Border Studies' Annual Brussels Policy Seminar), Brussels, 10 October 2019.

the Dutch Province of Limburg.⁴⁶ A third online workshop also gathered several dozen participants, with whom ITEM discussed the research results of the remaining 2020 dossiers.⁴⁷

Another dossier from 2020, too, generated immediate follow-up: The study on the implementation and possible effects of the Dutch Strategy on Spatial Planning and the Environment (NOVI) from a Euregional perspective. Continuing the collaboration with our partners at Fontys, ITEM followed suit with research on the potential cross-border options for informing the Dutch Province of Limburg's strategic planning in relation to the NOVI. This in turn has led to ITEM's membership in a corresponding thematic working group chaired by the Limburg Province and the city region Parkstad.

As to the research results of the Cross-Border Impact Assessment of 2021, ITEM's COVID-19 dossier on crisis management and its effects on the Euregio Meuse-Rhine received a lot of media attention and generated written questions to the Provincial Government as to the development of the crisis response. The dossier derives from ITEM's research efforts together with colleagues from Leiden University and the Ockham IPS Institute as part of the INTERREG Pandemic project. The Pandemic project produced three in-depth studies, on cross-border crisis response, cross-border ambulance transport and cross-border procurement.⁴⁸ The research resulted in multiple contributions in articles, essays, and presentations. Worthy of mentioning is for example the working visit of the Temporary Committee Corona of the Dutch House of Representatives in January 2023 during which ITEM presented and discussed the results of the COVID-19 dossier.⁴⁹

In a scientific sense, the dossier and Pandemic research provided a starting point for a larger research project. Under the NWO program 'National Science Agenda: Research on Routes by Consortia' (NWA ORC), the research proposal 'Borders in Times of Crisis: Challenges and Chances' (BITOC) was initiated by ITEM. In this application, ITEM brought together researchers, policymakers, stakeholders, and other societal actors across the Dutch national border with Germany and Belgium for research on border region resilience. The application did not make it to the final stage, but resubmission is planned. The BITOC proposal also focuses on the results of the 2021 Healthcare dossier. The dossier was further cited in the publication "Cross-Border Patient Mobility in Selected EU Regions" by AEBR for the European Commission.⁵⁰

One dossier that received particular attention is the 2021 dossier on working from home. Several media reports covered the dossier.⁵¹ In addition, the dossier study was published and cited in several professional journals and magazines.⁵² The dossier also received political and policy follow-up. As a result of the publication, Parliamentary questions were raised, with responses indicating that the

⁴⁶ See <https://www.maastrichtuniversity.nl/events/item-online-workshop-20nov2020-crisis-border-regions-first-wave>

⁴⁷ See <https://www.maastrichtuniversity.nl/nl/events/item-online-workshop-04dec2020-item-grenseffectenrapportage-2020?view=overlay>

⁴⁸ The studies can be found here: <https://pandemic.info/wp3-studies-and-legal-advice/>

⁴⁹ <https://www.tweedekamer.nl/nieuws/kamernieuws/tijdelijke-commissie-corona-brengt-werkbezoek-aan-zuid-limburg>

⁵⁰ https://health.ec.europa.eu/publications/cross-border-patient-mobility-selected-eu-regions_en

⁵¹ Such as Zoals L1 (27-12-2021), L1mburg Centraal: thuiswerkproblemen voor grenswerkers, <https://1.nl/l1mburg-centraal-thuiswerkproblemen-voor-grenswerkers-168630/>; FD (19-11-2021), Grenswerkers de klos als zij ook na corona blijven thuiswerken, <https://fd.nl/economie/1420109/grenswerkers-de-klos-als-zij-ook-na-corona-blijven-thuiswerken>.

⁵² Verschueren H. The Application of the Conflict Rules of the European Social Security Coordination to Telework During and After the COVID-19 Pandemic. *European Journal of Social Security*. 2022;24(2):79-94. doi:[10.1177/13882627221107042](https://doi.org/10.1177/13882627221107042); Mertens, P. (2022). De veelzijdige impact van thuiswerken voor

grensarbeiders. *Pensioen Magazine*, 2022(3), 11-15; Weerepas, M. J. G. A. M. (2021). Grenswerkers na de crisis: aanpassing regelgeving vereist? *Vakblad Grensoverschrijdend Werken*, 2021(43), 3-9; Mertens, P. (2022). Grenzen aan grensarbeid. *Thema Hoger Onderwijs*, 2022 (3).

report would be used in shaping future policy.⁵³ The ITEM study was also cited in the SER Advice on the Future of Hybrid Work, which also forms the basis of Dutch policy.⁵⁴ ITEM Expertise Centre itself has also taken several follow-up actions on this issue, not only in 2022 but also in 2023. On 14 June 2023 the B-Solutions workshop took place, organised by ITEM, GIP Aachen/Eurode and AEBR, in cooperation with the Benelux Union, in the context of a B-Solutions project financed by DG REGIO. With a focus on the border regions between Germany, the Netherlands and Belgium, the workshop examined solutions in the field of teleworking, cross-border working, taxes and issues regarding social security, examined how these issues can be solved within new frameworks on both an EU and national level and discussed the role of the most important organisations for implementing earlier made recommendations.⁵⁵

Dossiers from 2022 were also followed up sufficiently. The dossier on the cross-border energy transition for example resulted in multiple mentions in news articles. It furthermore constituted the beginning for follow-up in multiple projects such as the Euregional Sustainability Center⁵⁶ with Fontys Venlo and a scientific Horizon Europe application. The fireworks dossier from 2022 also attracted media attention and the provided directions of solutions are now on the list of bottlenecks to be solved of the Administrative Border Region Consultation between the Netherlands and Flanders.

Next to political and hands-on follow-up that the ITEM Cross-Border Impact Assessment methodology generates, it also provided publicity and further traction for ITEM's border impact assessment methodology.⁵⁷ The concept of ITEM's approach on regulatory government led to an article for the latest handbook on "Territorial Impact Assessment" edited by Prof. Eduardo Medeiros (Instituto Universitário de Lisboa) and published by Springer in 2020.⁵⁸ In 2022, the peer-reviewed publication of "Cross-Border Impact Assessment for EU's Border Regions" appeared in the European Journal of Law Reform, discussing ITEM's methodology, border effects and implications for EU policy.⁵⁹ Furthermore, ITEM has co-organised a EU Regions Week workshop on "Evaluation and assessment of EU policies: how to strengthen the voice of cross-border regions?", together with the European Committee of the Regions (CoR) on 13 October 2021. It thus actively promotes the development of the Committee's "Fit for Future platform" as an essential tool for regional input into EU policy assessment and evaluation. On the same line, the CoR's Regional Hub network (RegHub) is a recent approach to better integrating the expertise of regional administrations. In June 2024, ITEM was invited by the Committee of the Regions to deliver an interactive workshop for members of the

⁵³ <https://www.tweedekamer.nl/kamerstukken/kamervragen/detail?id=2021Z21404&did=2021D50692>

⁵⁴ <https://www.ser.nl/-/media/ser/downloads/adviezen/2022/hybride-werken.pdf>, p. 88.

⁵⁵ <https://crossborderitem.eu/succesvolle-workshop-wegwerken-van-belemmeringen-voor-grensoverschrijdend-telewerken/>

⁵⁶ <https://sustainabilitycenter.eu/>

⁵⁷ N. Büttgen, 'Cross-border impact assessment: a bottom-up tool for better regulation and more cohesion' in "Blížej Brukseli" ("Closer to Brussels") – Special Issue on Cross-Border Cooperation, e-magazine of the Malopolska Region (PL) Brussels Office, 2019, No. 26, pp. 10-13: https://issuu.com/blizejbrukseli/docs/26._closer_to_brussels_-_cross-border_cooperation.

⁵⁸ E. Medeiros (ed.), Territorial Impact Assessment, Springer International Publishing, 2020: <https://www.springer.com/de/book/9783030545017>.

⁵⁹ Martin Unfried, Pim Mertens, Nina Büttgen e.a., 'Cross-Border Impact Assessment for EU's Border Regions', (2022) European Journal of Law Reform 47-67

‘RegHub’ network on evaluating legislation using the stakeholder engagement tool.⁶⁰ The workshop served to examine how RegHub can include cross-border perspectives.⁶¹

Out of the dossiers of the 2023 edition, ITEM’s work on broad prosperity indicators from a cross-border perspective will have a follow-up. The impact assessment illustrated that the measurement applied under the framework of the Dutch approach of broad prosperity (brede welvaart) does have some shortcomings if it comes to border regions. Today, data from the other side of the border are not included, meaning that institutions like hospitals, universities, etc. or cross-border interactions are not part of the measurement. The findings were presented and discussed with experts and stakeholders at the Dutch national network broad prosperity (Nationaal Netwerk Brede Welvaart). With CBS and others, ITEM is part of a working group looking into the possibility to get a better picture of the situation in border regions by including cross-border data.

Looking ahead, ITEM will continue to map the effects of international, European, national and regional legislation and policy in its Cross-Border Impact Assessments. The Expertise Centre is dedicated to developing⁶² its impact assessment methodologies further and is looking forward to doing so in cooperation with its partners, stakeholders and researchers.

⁶⁰ <https://cor.europa.eu/en/news/external-reghub-workshop-cologne>

⁶¹ See <https://cor.europa.eu/en/events/Pages/ewrc-evaluation-eu-policies.aspx>.

⁶² In this context, ITEM has collaborated with UHasselt, RWTH Aachen and ULiège in the INTERREG EMR Crossquality project, which is developing a border effects methodology to understand the effects of the INTERREG programme on the quality of cross-border cooperation.

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