



## Dossier: Ex-post analysis of the reintroduction of internal border controls – cross-border effects on the Euregio Meuse-Rhine (PREMIUM-Study)

Cross-Border Impact Assessment 2025



# **Dossier: Ex-post analysis of the reintroduction of internal border controls – cross-border effects on the Euregio Meuse-Rhine (PREMIUM-Study)**

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## 1. Introduction

The Schengen Area is a cornerstone of European integration, providing for passport-free travel across participating countries. It was established by the Schengen Agreement in 1985 as an “intergovernmental project between five EU countries” that created a shared space without internal border checks.<sup>1</sup> Since then, the Schengen Area has gradually expanded, and it now comprises 29 countries, including 25 of the 27 EU Member States (excluding Ireland and Cyprus), as well as four non-EU countries: Iceland, Liechtenstein, Norway, and Switzerland.<sup>2</sup>

The Schengen Borders Code (Regulation (EU) 2016/399<sup>3</sup>), as amended, sets out the procedural framework for managing both external border crossings and the limited circumstances under which internal border checks may be reintroduced. It forms the core legal basis governing mobility within the Schengen Area. While often associated with travel convenience, the Schengen Area is also tied to the EU’s internal market – which is built on the free movement of goods, capital, services, and people. The right to move and reside freely is a fundamental part of EU citizenship, anchored in Article 21 TFEU and Article 45 of the Charter of Fundamental Rights. Due to this, changes to the Schengen Borders Code, particularly the updated procedures and expanded conditions for internal border controls introduced in 2024, can have real consequences for people living in internal border regions and for local economies; this tension lies at the heart of our assessment.

The reintroduction of border controls may hinder one of the core EU goals, which is Territorial Cohesion. Article 3 of the TFEU<sup>4</sup> establishes that the EU should “promote economic, social and territorial cohesion, and solidarity among Member States.” This is based on the four pillars of freedom of the EU internal market, freedom of movement of goods, of capital, of labour, and to establish and

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<sup>1</sup> The Schengen Area Explained. (2025). <https://www.consilium.europa.eu/en/policies/schengen-area/#:~:text=The%20Schengen%20area%20is%20one,travel%20area%20in%20the%20world>.

<sup>2</sup> Schengen Area. (2025). [https://home-affairs.ec.europa.eu/policies/schengen/schengen-area\\_en](https://home-affairs.ec.europa.eu/policies/schengen/schengen-area_en)

<sup>3</sup> Regulation EU 2016/399. (2016). <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0399>

<sup>4</sup> Treat on the Functioning of the European Union. (2012). <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12012E/TXT:en:PDF>

provide services. The Green Paper on Territorial Cohesion<sup>5</sup> defined it as necessary “to ensure a balanced and sustainable territorial development of the EU as a whole, strengthening its economic competitiveness and capacity for growth while respecting the need to preserve its natural assets and ensuring social cohesion.” The concept reinforces the need to have a more connected territory, not only mobility-wise, but also on the access to services, social cohesion, and sustainable development, thus reducing inequalities between territories. The concept of territorial cohesion is rather relevant in the EU, where it is not framed solely as territorial cohesion within countries, but also between countries, especially in border regions.

The EU has 463 border regions<sup>6</sup> in its territory, this means that 52% of its regions are a border region or lay 25km away from a land border. Border regions are considered laboratories for European integration<sup>7</sup>, as these areas are deeply interconnected with each other. Nonetheless, these areas are often less well off than the other regions in their countries and face more challenges for economic development<sup>8</sup>. In that sense, the EU puts great attention into these areas through its regional development policy. Border regions have been both laboratories and beneficiaries of European integration. Programs such as INTERREG<sup>9</sup> and the creation of European Groupings of Territorial Cooperation (EGTCs)<sup>10</sup> have helped institutionalize cross-border governance structures, fostering collaboration in areas like transport, health care, and education.

The Belgium–Netherlands–Germany border area is a prime example of such a region, where long-standing cooperation and fluid mobility have become essential to local economies and social cohesion. The cooperation and connection between these countries has resulted in different Interreg programs.

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<sup>5</sup> Commission of the European Communities. (2008). Green Paper on Territorial Cohesion. <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0616:FIN:EN:PDF>

<sup>6</sup> [Territorial typologies manual - border regions](#)

<sup>7</sup> Durand, F., & Decoville, A. (2020). A multidimensional measurement of the integration between European border regions. *Journal of European integration*, 42(2), 163-178..

<sup>8</sup> European Commission. (2017). Boosting growth and cohesion in EU border regions. [https://ec.europa.eu/regional\\_policy/sources/communication/boosting\\_growth/com\\_boosting\\_borders.pdf](https://ec.europa.eu/regional_policy/sources/communication/boosting_growth/com_boosting_borders.pdf)

<sup>9</sup> European Commission. Interreg: European territorial co-operation. [https://ec.europa.eu/regional\\_policy/policy/cooperation/european-territorial\\_en](https://ec.europa.eu/regional_policy/policy/cooperation/european-territorial_en)

<sup>10</sup> European Commission. European Grouping of Territorial Cooperation (EGTC). [https://ec.europa.eu/regional\\_policy/policy/cooperation/european-territorial/european-grouping-territorial-cooperation\\_en](https://ec.europa.eu/regional_policy/policy/cooperation/european-territorial/european-grouping-territorial-cooperation_en)

One of them is the Interreg Meuse-Rhine<sup>11</sup> that has the goal of creating innovative solutions to address the challenges the bordering areas of all three countries face.

However, in recent years, cross-border movement has been increasingly hindered by shifts in Member State border governance, particularly through the revision of the Schengen Borders Code<sup>12</sup> and the reintroduction of internal border controls<sup>13</sup>. These developments reflect a broader trend toward securitization and national discretion in the management of intra-EU mobility. In the case of the Belgium–Netherlands–Germany border region, new controls have been implemented that disrupt the previously seamless flow of people and services. Specifically, the Netherlands has introduced one-way checks on its border with Belgium, while both the Netherlands and Germany have reintroduced two-way controls along their shared border. These measures, although justified by national governments on grounds such as migration management or public security, are expected to have tangible effects on cross-border mobility. Residents who commute daily for work or access services across borders may now face delays, uncertainty, or administrative burdens, undermining the ease of movement that has long defined this integrated region. Moreover, such barriers risk weakening the socio-economic ties and mutual trust that are essential to sustaining cross-border cooperation and, by extension, territorial cohesion within the EU.

This assessment aims to explore the impact of the 2024 revision of the Schengen Borders Code on cross-border mobility in the Belgium–Netherlands–Germany cross-border region, by examining how the newly established border controls have affected mobility, commuting, and regional integration. Through this case, we assess whether recent developments strengthen or weaken the EU's broader territorial cohesion goals.

The following report is divided into a methodology and objectives section, followed by a legal and proportionality analysis of the legal framework around the Schengen Borders Code. Moreover, the

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<sup>11</sup> Interreg Meuse-Rhine. <https://www.interregmeuserhine.eu/>

<sup>12</sup> European Commission. (2024). The Commission welcomes the political agreement on new rules for a more resilient Schengen area. [https://ec.europa.eu/commission/presscorner/detail/pt/ip\\_24\\_667](https://ec.europa.eu/commission/presscorner/detail/pt/ip_24_667)

<sup>13</sup> European Commission. Temporary Reintroduction of Border Controls. [https://home-affairs.ec.europa.eu/policies/schengen/schengen-area/temporary-reintroduction-border-control\\_en](https://home-affairs.ec.europa.eu/policies/schengen/schengen-area/temporary-reintroduction-border-control_en)

research results will be presented and discussed, and then with more details when evaluated with their related research theme. Finally, a section is dedicated to local and national newspapers and media, and their coverage of the reintroduction of border controls in the Euregio.

### **1.1. Reintroduction of border controls**

The Schengen Borders Code allows Member States to temporarily reintroduce internal border controls. These reintroductions are only allowed in the event of a serious threat to public policy or internal security. These measures are intended as a last resort and may only be enacted in exceptional circumstances.

To be legally accepted under EU law, controls must meet several strict conditions. They must be proportionate, limited in scope and duration, and linked to the specific threat identified by the Member State. The duration of these controls depends on the legal basis invoked, but in all cases, it must remain restricted to the minimum necessary.

As of now, 15 out of 29 Schengen countries have active internal border controls in place. The main justifications include threats to national security, related to terrorism, the implications of Russia's invasion of Ukraine, and irregular migration. Other reasons include public health concerns and enhanced security needs during major international events.

Below are the cases of Germany and the Netherlands, two Members States currently enforcing internal border controls relevant to the region studied in this report:

Table 2: Border controls in Germany and the Netherlands.<sup>14</sup>

Country	Dates	Reason	Scope
Germany	16/09/2024 - 15/03/2025	<b>Security risks</b> related to <b>irregular migration</b> , including smuggling at the EU's external borders, continue to lead to increased levels of irregular entries, exacerbating already tense accommodation situation for <b>refugees</b> , especially in the context of the admission of Ukrainian nationals.	Borders with France, Belgium, The Netherlands, Luxembourg, and Denmark.
The Netherlands	09/12/2024 - 08/06/2025	Elevated level of <b>irregular migration</b> , <b>migrant smuggling</b> , and substantial <b>secondary migration flows</b> . High and cumulative <b>pressure on the migration</b> system, in particular for asylum reception. Increase of <b>criminal incidents</b> at reception centres.	Land and air borders with Belgium and Germany
Germany	16/03/2025 - 15/09/2025	Serious threats to <b>public security</b> and order posed by continued elevated levels of <b>irregular migration</b> and migrant <b>smuggling</b> , and the strain on the asylum reception system. The impact of the <b>global security situation</b> (including Russia's war of aggression against <b>Ukraine</b> and the situation in the <b>Middle East</b> ) on security and migration.	Land borders with France, Luxembourg, Belgium, the Netherlands, Denmark, Austria, Switzerland, Czechia, and Poland.
The Netherlands	09/06/2025 - 08/12/2025	Serious threat to <b>public policy</b> caused by elevated levels of <b>asylum applications</b> , <b>irregular migration</b> , migrant <b>smuggling</b> , and secondary movements, leading to an overburdening of the migration system in general and the asylum system in particular, as well as pressure on public services, including housing, health care and education.	Land and air borders with Belgium and Germany.

<sup>14</sup> European Commission. (2025). Member States' notifications of the temporary reintroduction of border control at internal borders pursuant to Article 25 and 28 et seq. of the Schengen Borders Code.



The controls currently in place are extensions of those established in September 2024, in the case of Germany, and December 2024, in the case of the Netherlands. Moreover, Member States may also declare the list of border crossing points after the reintroduction of internal border controls under Article 25 and 28 of the Schengen Code<sup>15</sup>. Neither Germany nor the Netherlands have submitted a list of authorised border points.

Both countries share largely similar reasoning, as both focus on challenges related to migration management and pressure on the national systems. These measures are expected to impact cross-border mobility in the affected regions.

## 2. Objectives & Method

### 2.1 Future Effects: Ex-post analysis

This research dossier contributes to the Cross-Border Impact Assessment with an ‘ex-post’ mapping at an early stage of the recently revised Schengen Borders Code (SBC), approved on May 24<sup>th</sup> 2024, by the Council of the European Union<sup>16</sup>. In particular, the research turns around a crucial point introduced by the amended Schengen Borders Code, meaning the Temporary Reintroduction of Border Control at the internal borders. Therefore, while the legislation has already gone into force, this research aims to analyse how the Member States implemented such measures on their territory, among them are the Netherlands and Germany. While the current situation presents characteristics for an accurate analysis due to the availability of preliminary data and evidence to be collected and analysed the different attitude of national governments tied to the first stages of the new regulation recreates a current situation in which many practices remain provisional and unevenly implemented across regions.

This is the case for the Euregio Meuse-Rhine, the cross-border region on which the research will focus on and that will be furtherly discussed and presented in the following section.

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<sup>15</sup> European Commission. (2025). List of border crossing points after reintroduction of internal border control pursuant to Article 25 and 28 et seq. of the Schengen Borders Code. <[https://home-affairs.ec.europa.eu/document/download/e9e9e193-3cb1-43da-99e0-ec29a91ec4d0\\_en?filename=List%20of%20internal%20bcp\\_en\\_3.pdf](https://home-affairs.ec.europa.eu/document/download/e9e9e193-3cb1-43da-99e0-ec29a91ec4d0_en?filename=List%20of%20internal%20bcp_en_3.pdf)> accessed 2025.

<sup>16</sup> Council of the European Union, “Schengen area: Council adopts update of Schengen Borders Code,” press release, May 24, 2024, <<https://www.consilium.europa.eu/en/press/press-releases/2024/05/24/schengen-area-council-adopts-update-of-schengen-borders-code/>> accessed 2025.

## 2.2 Demarcation: Defining the Territory of the Research

The demarcated area has been identified in the cross-border region between the Netherlands (Dutch province of Limburg), Germany (Niedersachsen, North Rhine-Westphalia, and Rheinland-Pfalz) and Belgium (Provinces of Liège and Limburg)



**Map 1.** The Euregio Meuse-Rhine<sup>17</sup>

While each Member State has a unique and different administrative and political organization, under the geographical perspective as well as division of competencies and institutions, some are located at an internal border of the EU, as is the case for the territories forming the Euregio Meuse-Rhine. We can define the latter as a *cross-border region*, recalling the term ‘region’ as a generic term used to indicate a territorial entity that is smaller than a country as well as national administrative and geographical concept. More in specific, we focus on the Euroregions concept as “a cross-border territorial entity that brings together partners from two or more cross-border regions in different European countries”<sup>18</sup> defined as such by the Transfrontier Operational Mission (MOT). These

<sup>17</sup> Euregio Meuse-Rhine (n.d). History and identity <https://euregio-mr.info/nl/ueber-uns/geschichte/>

<sup>18</sup> Mission Opérationnelle Transfrontalière, “Euroregions,” (n.d.), <https://www.espaces-transfrontaliers.org/en/resources/territories/euroregions/>.

structures have as main scope to establish and harmonize cooperation with the different administrations and territories within the Euroregion and across national borders.<sup>19</sup>

Moreover, this Euregio Meuse-Rhine presents an excellent case study as there is a high prevalence of robust economic activity, marked by numerous businesses, a significant population of cross-border commuters and a conspicuous flow of tourists. This presents an intriguing opportunity to examine the different measures and policies applied by the three national governments and the potential impact of the reintroduction of border control at the internal border on a dynamic and integrated cross-border region, such as the Euregio Meuse-Rhine.

## 2.2 The Research Themes, Principles, Benchmarks, and Indicators of the Dossier

### The issue of the revised Schengen code in light of the designated Research Themes

Given the domain's relevance and the extended repercussions of the amended legislation, all three research themes, **European Integration**, **Socio-economic development**, and **Euregional cohesion**, will be covered in this dossier. The reform of a fundamental treaty managing the freedom of movement inside the European Union, a pillar of the community, has prospects of impacting all three dimensions. Therefore, the analysis verges on four methods, with table 1 presenting the related research objectives to each theme.

To contribute to the **European Integration** theme, we have opted for a main legal and documentation analysis, partially integrated through a survey digitally distributed. The research related to this research theme examines how border control practices implemented by the Netherlands and Germany correspond to foundational European commitments to free movement, the absence of internal borders, and non-discrimination. Through a legal analysis and proportionality assessment provided by the Schengen Borders Code and broader EU treaties it evaluates whether current approaches to mobility reflect the intended openness of internal European borders.

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<sup>19</sup> Unfried, M., Mertens, P., Büttgen, N., & Schneider, H. (2022). Cross-Border Impact Assessment for EU's Border Regions, *European Journal of Law Reform*, 24(1), 57–83. <<https://doi.org/10.5553/EJLR/138723702022024001004>>

Moreover, the survey aims to provide answers to the other two research themes, the **Socio-economic development** and **Euregional cohesion**, mainly targeting students and employees of Maastricht University as a case study representative of regular commuters crossing both mentioned borders.

The contribution to the **Socio-economic development** builds on analysing the economic and social effects of border controls in a cross-border context. It considers how border proximity influences regional labour markets, trade, tourism, education, and service access, all within the broader framework of the internal market and Schengen cooperation. This research theme draws mainly on field trip interviews and on a survey distributed to a specific population. In fact, the case study considered involves Maastricht's University students and employees reporting their firsthand experiences on the territory. The objective is to understand how border control measures affect daily cross-border commuting, employment, and economic interaction in areas that rely heavily on openness for their prosperity.

Through the survey and the field trip interviews, we provide to the **Euregional cohesion** research theme, addressing how border control measures affect cross-border cooperation and territorial cohesion examining the coordination of border control activities and how these practices influence the perception of the EU, of the Schengen area and the feeling of institutional and territorial trust and belonging.

Finally, interviews have been conducted during a field trip on the *Drielandentrein*, the Three-Country Train connecting Belgium, the Netherlands and Germany. The interviews aim to contribute to the last two research themes, enlarging the pool of the actors interviewed to regular passengers and commuters, while reporting a first-hand experience. The field trip was conducted during a regular mid-week day. They were held during two return trips starting from Maastricht's train station, respectively to the city of Liège in Belgium and Aachen, in Germany, both being the main train stations connected with the city of Maastricht in the Euregio.

It is necessary to mention a disagreement with Arriva's train personnel about the necessity of a permit to conduct interviews on the Maastricht-Aachen train line. This unforeseen contingency limited the

data collection on the Dutch-German border during the field trip. Hence, the data represented cannot be claimed as exhaustive as in the passenger interviews at the Dutch-Belgian border.

Table 2: Research themes, principles, benchmarks, and indicators for assessing the cross-border effects of the re-established internal border control within the Schengen Area.

Theme	Principles	Benchmarks	Indicator
<b>European Integration</b>	<ul style="list-style-type: none"> <li>• Schengen Borders Code calls for an open Schengen Area</li> <li>• EU Law: freedom of mobility (TFEU 1992, Article 21(1))</li> <li>• EU Law: lack of internal borders (TFEU 1992, Article 67(2))</li> <li>• EU Law: Dublin III Regulation</li> <li>• Benelux Union (1948): free/open market</li> <li>• Non-discrimination (European Charter of Fundamental Rights (1950) and Universal Declaration of Human Rights (1949))</li> </ul>	<ul style="list-style-type: none"> <li>• Open borders facilitate free movement</li> <li>• Mobility in a cross-border region versus a non-border region</li> <li>• Mobility when unilateral or bilateral controls</li> <li>• Benelux open border: laboratory of EU</li> <li>• The control mechanism at border controls</li> </ul>	<ul style="list-style-type: none"> <li>• Legal analysis: proportionality test (focus on cross-border territories requirement)</li> <li>• How do Member States (Belgium, Germany, the Netherlands) define 'cross-border regions?' (transposition of SBC rules)</li> <li>• How are the Benelux rules relevant in this respect?</li> <li>• How is mobility different/equal in the Euroregion versus non-bordering regions?</li> <li>• What are the non-discriminatory practices at border controls?</li> <li>• What are the results of border controls? How many people get stopped and sent back?</li> </ul>
<b>Sustainable Development/Socio-Economic Development</b>	<ul style="list-style-type: none"> <li>• Cross-border 360 degree labour market &amp; economy</li> <li>• Cross-border goods and services market and economy <ul style="list-style-type: none"> <li>○ Tourism</li> <li>○ Education</li> <li>○ Trade</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Visions &amp; Strategies as formulated by and in Euroregions (EMR 2030 for example)</li> <li>• Visions &amp; Strategies of border provinces/regions</li> <li>• Benelux open market</li> <li>• Economic situation of the area. <ul style="list-style-type: none"> <li>○ GDP.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• How have the incentives to work across the border been impacted?</li> <li>• UM as a case: how does border control impact students and employees?</li> <li>• Has cross-border commuting been delayed by controls in practice? (traffic jams etc)</li> </ul>



	<ul style="list-style-type: none"> <li>• Internal market &amp; functioning Schengen</li> </ul>	<ul style="list-style-type: none"> <li>○ Economic disadvantages due to the border.</li> <li>• Access to goods and services.</li> </ul>	<ul style="list-style-type: none"> <li>• How are border-area based businesses impacted? (e.g. border supermarkets and cross-border shopping?)</li> </ul>
<b>Euregional Cohesion</b>	<ul style="list-style-type: none"> <li>• Territorial cohesion (TFEU)</li> <li>• Good cross-border governance &amp; cooperation</li> </ul>	<ul style="list-style-type: none"> <li>• Cohesion Policy of the EU               <ul style="list-style-type: none"> <li>○ ERDF Funds</li> </ul> </li> <li>• Perception of the EU</li> <li>• International police cooperation</li> </ul>	<ul style="list-style-type: none"> <li>• What are the concerns at Euregions?</li> <li>• Are border control activities coordinated? (e.g. Germany-Netherlands)</li> <li>• What is the impact on double cities/enclaves?</li> <li>• Coordination or cooperation within the Benelux Union?</li> <li>• How is institutional trust affected between countries? Are there differences between NL-DE and NL-BE?</li> </ul>

### 3. Legal Framework of the Schengen Borders Code

This chapter outlines the legal framework governing the Schengen Borders Code (SBC) and sets the foundation for assessing the legality and proportionality of recent internal border control measures introduced by the Netherlands and Germany. It begins with the relevant EU primary law, including Treaty provisions and the Charter of Fundamental Rights, which form the basis for free movement and the legal boundaries for reintroducing border checks. Then, it explores the SBC itself – including the most recent 2024 amendments – to explain the conditions and procedures laid down in secondary law. Subsequently, it analyses the proportionality of the temporary reintroduction of internal border controls by Germany and the Netherlands in the Euregio Meuse-Rhine region under Article 25 SBC which is the benchmark for determining whether Member State measures are compatible with EU law,

drawing from both primary legal sources and case law. The chapter concludes by evaluating how the Netherlands and Germany have implemented the SBC in practice, in order to examine whether these measures comply with EU proportionality standards.

### 3.1. EU Primary Law Foundations

EU primary law, composed of the Treaties and the Charter of Fundamental Rights, forms the core of the EU's values and competencies. The instruments also impose binding legal obligations on both the EU institutions and Member States when implementing EU law. In the context of the SBC, primary law is essential because it sets the normative foundations for principles like free movement and border governance. Additionally, it also enshrines fundamental rights which must be respected in the application of the SBC, including rights to free-movement, non-discrimination, privacy, and data protection. As a result, reintroductions of border controls must be compliant not only with the SBC but also with the broader legal principles found in the Treaties and the Charter.<sup>20</sup> This legal hierarchy has been reinforced in case law, which emphasises that secondary legislation must be interpreted in light of primary law, especially where fundamental rights are concerned.

#### 3.1.1. Treaty Provisions

The Treaty on the Functioning of the European Union (TFEU) and the Treaty on European Union (TEU) provide the constitutional framework within which the Schengen Borders Code (SBC) operates. These provisions reflect the core tension between two key objectives: enabling the free movement of persons and safeguarding internal security.

On the one hand, the Treaties provide a strong legal foundation for eliminating internal borders. Article 21(1) TFEU grants EU citizens the right to move and reside freely within the territory of the Member States. This is supported by Article 26(2) TFEU, which defines the internal market as an area without

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<sup>20</sup> Consolidated Version of the Treaty on the Functioning of the European Union [2016] OJ C202/47 (TFEU), arts 21, 26, 67, 72; Consolidated Version of the Treaty on European Union [2016] OJ C202/13 (TEU), arts 4(2), 5(4); Charter of Fundamental Rights of the European Union [2012] OJ C326/391, arts 7, 8, 21, 45, 52(1).

internal frontiers, and Article 67(2) TFEU, which calls on the Union to ensure the absence of internal border controls for persons.<sup>21</sup>

On the other hand, this freedom is not absolute. Article 72 TFEU clarifies that the responsibility for maintaining law and order and safeguarding internal security lies with the Member States. Article 4(2) TEU reinforces this by protecting the exercise of essential state functions, including national security.<sup>22</sup>

<sup>23</sup> These provisions acknowledge that Member States retain discretion to act in response to serious internal threats – but only within the bounds of EU law.

That legal limit is defined by the principle of proportionality, which is a concept which will be further assessed in more detail later in the report. The principle is set out in Article 5(4) TEU, which requires that any action taken under Union law, whether by EU institutions or Member States, must not exceed what is necessary to achieve legitimate objectives.<sup>24</sup> In the context of the SBC, this principle serves as the standard for assessing whether the temporary reintroduction of internal border controls is legally justified.

In short, the Treaties establish both the ambition of a borderless area and the conditions under which exceptions may apply. The SBC must be read against this backdrop: while Articles 21 and 67 promote free movement, Articles 72 and 4(2) recognise Member State discretion in cases of genuine security threats. Any restriction on movement, however, must be exceptional, justified, and proportionate.

### **3.1.2. Charter of Fundamental Rights of the European Union**

While the Treaties define the institutional and legal powers of the EU and its Member States, the Charter of Fundamental Rights of the European Union (CFR) performs a different constitutional role: it safeguards individual rights when Union law is applied. Following the entry into force of the Lisbon Treaty, the Charter acquired the same legal value as the Treaties.<sup>25</sup> It now serves as a binding limit on

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<sup>21</sup> TFEU (n 20).

<sup>22</sup> *ibid* art 72.

<sup>23</sup> TEU (n 20).

<sup>24</sup> *ibid* art 5(4).

<sup>25</sup> *ibid* art 6(1).

both the EU institutions and the Member States whenever they act within the scope of Union law.<sup>26</sup> In the context of the Schengen Borders Code (SBC), this means that even where Member States lawfully reintroduce internal border controls under EU secondary legislation, those measures must remain compatible with the rights protected under the Charter.

Several provisions of the Charter are particularly pertinent in this context. Article 45 protects the right of EU citizens to move and reside freely within the Union, while Article 21 prohibits discrimination, including on the basis of nationality or ethnic origin. These rights may be impacted where internal border checks disproportionately affect certain groups, especially third-country nationals, or racial minorities.<sup>27</sup>

Privacy and data protection are also central concerns under the SBC. Articles 7 and 8 of the Charter guarantee the right to respect for private life and the right to the protection of personal data. These protections are directly implicated in practices such as biometric screening, identity verification, and the use of large-scale EU databases like the Schengen Information System (SIS) and Entry/Exit System (EES).<sup>28</sup> While these systems are legally permitted, they must meet the Charter's requirements of legality, necessity, and proportionality.<sup>29</sup>

Finally, Article 19 of the Charter prohibits collective expulsion and affirms the principle of non-refoulement – the idea that no one should be returned to a country where they face a real risk of serious harm.<sup>30</sup> This right is especially important in light of Article 23a SBC, which allows Member States to return irregular migrants found near internal borders to the Schengen state from which they entered. These returns must follow strict safeguards, including an individual case assessment and guarantees that international protection obligations are respected.<sup>31 32</sup>

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<sup>26</sup> Case C-617/10 *Åklagaren v Hans Åkerberg Fransson* [2013] EU:C:2013:105, para 21.

<sup>27</sup> CFR (n 20).

<sup>28</sup> *ibid* arts 7 and 8, see also Regulation (EU) 2016/399 (SBC), art 8a.

<sup>29</sup> Case C-291/12 *Schwarz v Bochum* [2013] EU:C:2013:670, para 53.

<sup>30</sup> <https://www.unhcr.org/sites/default/files/2025-02/1951-refugee-convention-1967-protocol.pdf>

<sup>31</sup> CFR (n 20) art 19(2).

<sup>32</sup> Note: see Case C-578/16 *C.K. and Others* [2017] EU:C:2017:127, paras 85–91, where the CJEU held that transfers under EU law must be suspended if they risk causing inhuman or degrading treatment under Article 4 CFR. Although decided under Dublin III, the case illustrates the Charter's binding role in preventing harmful removals, including under SBC Article 23a.

## 3.2. Secondary Law: The Schengen Borders Code

### 3.2.1. Key Provisions

The Schengen Borders Code (SBC) is a central piece of EU secondary legislation that governs the crossing of external and internal borders within the Schengen Area. It aims to strike a balance between two core objectives: ensuring internal security and public order and safeguarding the right to free movement of persons.<sup>33</sup> This section outlines the legal framework of the SBC, drawing on EU Treaty provisions, the Charter of Fundamental Rights, and relevant case law. The SBC was first codified in Regulation (EU) 2016/399 and was most recently amended by Regulation (EU) 2024/1717.<sup>34</sup> It applies to all persons crossing the internal and external borders of Schengen Member States.

Article 3 of the SBC outlines its scope, stating that it applies to all persons crossing internal or external borders of Member States, “without prejudice to: (a) the rights of persons enjoying the right of free movement under Union law; (b) the rights of refugees and persons requesting international protection, in particular as regards non-refoulement.”<sup>35</sup> In other words, the SBC does not itself create free movement or asylum rights – those stem from primary law – but it operationalises them by setting out procedures for checks and controls. The regulation thereby functions as an implementing instrument designed to manage border crossing in compliance with pre-existing rights under EU law. This dual function is reflected in the broader structure of the Code. On the one hand, it sets clear conditions for external border control, aiming to protect the EU’s internal security and prevent unauthorised entry. On the other hand, it seeks to preserve the absence of internal border checks between Schengen States, with reintroduction permitted only in exceptional cases under strict legal conditions.

The 2024 revision introduces several significant changes to the SBC’s structure and operation, particularly with respect to internal border controls. First, Articles 25 to 29 have been reorganised and

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<sup>33</sup> Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) [2016] OJ L77/1, art 1.

<sup>34</sup> Regulation (EU) 2024/1717 of the European Parliament and of the Council of 13 June 2024 amending Regulation (EU) 2016/399 as regards the rules applicable to the temporary reintroduction of border control at internal borders [2024] OJ L, art 1.

<sup>35</sup> (n 33) art 3.



expanded. Article 25 now establishes the general principle that internal border control is a measure of last resort. Article 25a introduces a tiered procedure that distinguishes between foreseeable and unforeseeable threats, while Articles 26 and 27 strengthen the obligation to assess less restrictive alternatives and conduct a proportionality analysis, especially where controls are extended beyond six months.<sup>36</sup> Second, although the legal threshold for reintroducing internal controls remains a "serious threat to public policy or internal security" under Article 25(1), the revised SBC places greater emphasis on specific types of threats, including unauthorised secondary movements of third-country nationals, terrorism, and cross-border organised crime.<sup>37</sup>

Third, the procedural safeguards have been reinforced. Under Article 26, Member States must justify their actions by reference to a necessity and proportionality test, considering alternatives such as Article 23 police checks, the transfer mechanism under Article 23a, or enhanced cooperation. Any prolongation beyond one year must include a formal risk assessment. In addition, Article 27a provides for Commission involvement and consultation in assessing whether a proposed or extended control is justified.<sup>38</sup>

Fourth, transparency and oversight obligations have increased. Member States must submit detailed notifications, including proportionality assessments, and periodically report on the controls' effectiveness and impact on cross-border regions. The Commission is also tasked with publishing an annual State of Schengen report summarising the use and assessment of internal border controls across the EU.<sup>39</sup>

Finally, Article 42b requires Member States to designate and report their cross-border regions, acknowledging the importance of safeguarding the socio-economic integration of such areas when making decisions about border controls.<sup>40</sup>

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<sup>36</sup> (n 34) arts 25-27a.

<sup>37</sup> *ibid*, art 25(1)(c).

<sup>38</sup> *ibid*, arts 26, 27a.

<sup>39</sup> *ibid*, art 33.

<sup>40</sup> *ibid*, art 42b.

While the revised SBC expands the legal toolkit available to Member States, it also imposes greater accountability. The principle of proportionality, as set out in Article 5(4) TEU and Article 52(1) CFR, continues to anchor the legal framework.<sup>41</sup> The CJEU has affirmed that internal border controls must be based on new threats and cannot be indefinitely prolonged on the same grounds,<sup>42</sup> and that derogations from free movement must be interpreted strictly.<sup>43</sup> Overall, the 2024 SBC revision introduces a more detailed but stringent framework for internal border controls. It enhances Member States' ability to respond to serious threats but requires stronger legal justification and continuous monitoring to ensure that such measures remain temporary, necessary, and proportionate.

Table 3. Key Provisions of the Schengen Borders Code (as amended by Regulation (EU) 2024/1717) regarding internal border controls.

Article	Topic	Purpose and Relevance
<b>Article 3</b>	Scope	The SBC applies to all people crossing internal or external borders. It does not override rights under EU law, such as free movement or asylum. This has remained unchanged.
<b>Articles 6-14</b>	External Border Checks	Establishes conditions for entry, border procedures, and refusal of entry. These provisions remain in place, with increased interoperability with EU systems like SIS and EES.
<b>Article 21a</b>	Public Health Emergencies	Newly introduced mechanism allowing the temporary restriction of travel to the Union in large-scale public health emergencies.
<b>Article 23</b>	Police Checks Within Territory	Clarifies that police checks near internal borders are allowed if they're not systematic, based on risk, and not triggered just by crossing a border.
<b>Article 23a</b>	Transfers of Irregular Migrants	Lets Member States send third-country nationals found near internal borders back to the country they entered from, as long as they don't have legal stay and aren't asylum seekers.
<b>Article 25</b>	Starting Internal Border Controls	Reaffirms that internal border control may only be reintroduced in the event of a "serious threat to public policy or internal security", and only as a last resort.
<b>Article 25a</b>	Time Limits and Procedures	Countries can reintroduce border controls depending on the threat. The durations are outlined as: <i>immediate threats</i> (up to 1 month), <i>foreseeable threats</i> (up to 6 months, renewable, max 2 years total), and <i>major exceptional situations</i> (up to 3 years under strict conditions).

<sup>41</sup> TEU (n 20) art 5(4); CFR (n 11), art 52(1).

<sup>42</sup> Case C-368/20 *NW v Landespolizeidirektion Steiermark* ECLI:EU:C:2022:55.

<sup>43</sup> Joined Cases C-188/10 and C-189/10 *Melki and Abdeli* [2010] ECR I-5667.

<b>Article 26</b>	Risk and Proportionality Tests	Requires detailed assessment of whether border control is necessary and proportionate, including alternatives (e.g. Art 23 police checks, Art 23a transfers). Must consider impact on cross-border regions and essential travel.
<b>Article 27</b>	Notifying the EU	Sets out the formal requirements for notifying the Commission and Member States of intended border controls, including justification, duration, scope, and risk assessments.
<b>Article 27a</b>	Commission Oversight	The Commission can review and give opinions on whether border checks are justified, especially if they last over 12 months. It must consult other Member States and agencies.
<b>Article 28</b>	Health-Based Controls Inside the EU	Gives a special process for bringing back internal border checks during <u>large-scale health emergencies</u> that threaten the Schengen area.
<b>Article 33</b>	Reporting and Transparency	Member States must report after lifting border controls and, if extended, every 12 months. The Commission publishes a yearly State of Schengen report
<b>Article 42b</b>	Cross-Border Regions	Requires countries to define cross-border regions and notify the EU. These areas must be considered when deciding on border checks.

### 3.2.2. The Principle of Proportionality

In the present context, the object of this proportionality test is the temporary reintroduction of internal border controls by Germany and the Netherlands in the Euregio region, justified primarily on grounds of irregular migration and public security.<sup>44</sup> The legal question is whether this specific measure, which constitutes a derogation from the general rule of open borders within the Schengen Area, meets the requirements of proportionality under EU law.

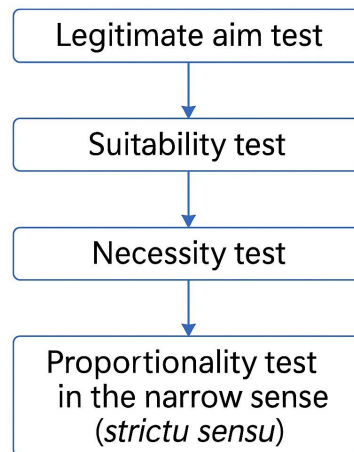
Proportionality serves as a limiting principle for lawful derogations from fundamental freedoms.<sup>45</sup> The CJEU has consistently held that any restriction on EU fundamental freedoms must actually help address the problem (suitability), be the least intrusive option available (necessity), and strike a fair balance between public benefit and personal cost (proportionality *stricto sensu*).<sup>46</sup>

<sup>44</sup> Confer Bundesministerium des Innern und für Heimat, 'Binnengrenzkontrollen: Verlängerung und Ausweitung der Maßnahmen' (28 September 2024) <[https://www.bmi.bund.de/SharedDocs/pressemitteilungen/DE/2024/09/binnengrenzkontrollen\\_pm2.html](https://www.bmi.bund.de/SharedDocs/pressemitteilungen/DE/2024/09/binnengrenzkontrollen_pm2.html)> accessed 28 April 2025.

<sup>45</sup> Craig and de Búrca, *EU Law*, 2021, pp. 583–585.

<sup>46</sup> *C-55/94 Gebhard*, C-368/20 (n 42).

In addition to its formal legality, the assessment must consider the real-world effects of the measure, especially on cross-border commuters. The analysis draws on empirical data obtained from students and employees of Maastricht University. Qualitative and quantitative data – based on survey responses and interviews – are essential for grounding the legal analysis.



**Figure 1.** Flow-Chart Proportionality Test

### **3.3. Analysis of the implementation of internal border controls in the Netherlands and Germany**

As mentioned, proportionality is a legal tool that ensures security measures do not go too far in restricting everyday rights, like crossing a border to work or see family. This section uses proportionality to analyse the implementations by the member states Germany and the Netherlands. Belgium has not reinstated border-controls.

### 3.3.1. Germany

The subject of the measure is the acting entity, namely the German state and its competent authorities (e.g. the Federal Ministry of the Interior<sup>47</sup>, the Federal Police<sup>48</sup>), which have reintroduced, extended, and enforced the border controls.

The object of the proportionality test is the concrete impact of Germany's reintroduced internal border checks on the free movement rights of cross-border individuals in the Euregio Meuse-Rhine.

This proportionality assessment evaluates the legal legitimacy of the measure (border control). Therefore, it is necessary to examine whether the contested measure pursues a legitimate objective. According to settled case law of the CJEU, a restriction on a fundamental freedom, such as the free movement of persons under Article 21 TFEU, may be justified if it is based on a legitimate aim that is compatible with EU law and corresponds to an overriding reason in the public interest.<sup>49</sup>

Initially, border controls were introduced in response to the European migration crisis in 2015, especially at the German-Austrian border due to the volume of irregular entries via the Balkan route.<sup>50</sup> In the present case, the German authorities have justified the temporary reintroduction of internal border controls under Article 25 SBC on the grounds of public security, irregular migration, smuggling networks, and pressure on the asylum reception system.<sup>51</sup> They also referenced broader geopolitical instability, including Russia's war of aggression against Ukraine and the Middle East crisis.<sup>52</sup>

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<sup>47</sup> Bundesministerium für Inneres.

<sup>48</sup> Bundespolizei.

<sup>49</sup> C-55/94 *Gebhard*, para 37; C-434/09 *McCarthy*, para 82.

<sup>50</sup> European Parliament, 'Schutz der EU-Außengrenzen' (Fact Sheets on the European Union, 2023) <https://www.europarl.europa.eu/factsheets/de/sheet/153/schutz-der-eu-au%C3%9Fengrenzen> accessed 28 April 2025.

<sup>51</sup> Cf. official press release German Federal Ministry of the Interior, accessed 05 May 2025: [https://www.bmi.bund.de/SharedDocs/pressemitteilungen/DE/2024/09/binnengrenzkontrollen\\_pm2.html](https://www.bmi.bund.de/SharedDocs/pressemitteilungen/DE/2024/09/binnengrenzkontrollen_pm2.html); European Commission, 'Temporary Reintroduction of Border Control' [https://home-affairs.ec.europa.eu/policies/schengen/schengen-area/temporary-reintroduction-border-control\\_en](https://home-affairs.ec.europa.eu/policies/schengen/schengen-area/temporary-reintroduction-border-control_en), accessed 28 April 2025.

<sup>52</sup> *ibid.*



Additionally, public discourse around the response to the 2025 Aschaffenburg stabbing incident, has highly influenced the political narrative.<sup>53</sup> The perpetrator should have been returned to Bulgaria, his country of EU entry in 2023.<sup>54</sup> The incident was cited as symptomatic of the dysfunctionality of the Dublin Regulation.<sup>55</sup> In reaction, the German government proposed legislation to transpose the reformed Common European Asylum System (CEAS) into national law, focusing on external border controls, improved return procedures, and internal controls to ensure public order.

On 12 September 2024, Interior Minister Nancy Faeser notified the Commission of an extension of border controls until 15 September 2025.<sup>56</sup> As per the SBC, Member States may unilaterally reintroduce such measures but must submit notifications under Article 27. The Commission may issue an opinion but cannot veto a Member State's decision.<sup>57</sup>

The justifications provided correspond to both primary and secondary EU law criteria: public security is protected under Article 72 TFEU and cited in Article 25 SBC. Article 67(2) TFEU also frames border protection within the broader Area of Freedom, Security and Justice. Accordingly, the measure serves a legitimate objective under EU law. This interpretation is consistent with the CJEU's reasoning in C-368/20, *NW*, where the Court confirmed that serious threats to public policy or internal security, particularly in the context of irregular migration, may constitute legitimate grounds for derogating from the principle of free movement.<sup>58</sup> Therefore, the measure in question can be said to pursue a legitimate objective under EU law.

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<sup>53</sup> Bundesministerium des Innern und für Heimat, 'Statement zur Sicherheitslage nach Aschaffenburg' (23 January 2025) <https://www.bmi.bund.de/SharedDocs/kurzmeldungen/DE/2025/01/aschaffenburg-statement.html> accessed 28 April 2025.

<sup>54</sup> *ibid.*

<sup>55</sup> *Ibid* and see regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 [2013] OJ L180/31 (Dublin III Regulation).

<sup>56</sup> Bundesministerium des Innern und für Heimat, Verlängerung der Binnengrenzkontrollen an den Grenzen zu Österreich, Tschechien und Polen sowie zu Schweiz (Pressemitteilung, 14 February 2025) <https://www.bmi.bund.de/SharedDocs/pressemitteilungen/DE/2025/02/binnengrenzkontrollen.html>, accessed 26 May 2025.

<sup>57</sup> European Commission, 'Temporary Reintroduction of Border Control' [https://home-affairs.ec.europa.eu/policies/schengen/schengen-area/temporary-reintroduction-border-control\\_en](https://home-affairs.ec.europa.eu/policies/schengen/schengen-area/temporary-reintroduction-border-control_en), accessed 28 April 2025.

<sup>58</sup> Case C-368/20 *Commission v Germany* EU:C:2022:54, paras 68–72.

The next step assesses whether the measure is capable of achieving the stated objectives, in that sense it must be suitable.<sup>59</sup> Germany has argued that controls reduce irregular migration and disrupt smuggling operations.

In Nancy Faeser's communication to the European Commission she asserted and declared that Germany's asylum system is at the brink of its operational capacity, "no state in the world can take in unlimited numbers of refugees."<sup>60</sup> She further stressed that the solidarity-based social model was under threat, necessitating extraordinary measures.<sup>61</sup>

Systematic border checks may theoretically deter irregular migration or allow law enforcement to intercept suspects. This logic satisfies the low threshold of the suitability test, as the measure plausibly contributes to achieving the declared objective, even if only partially. Therefore, the measure is suitable.

Necessity requires that no less restrictive measure exists to achieve the same objective.

Between October 2023 and early 2025, Germany recorded 80,000 unauthorised entries, 1,900 arrests of human traffickers, and 47,000 refusals of entry.<sup>62</sup> The number of asylum applications dropped by 34% compared to 2023.<sup>63</sup> While the Federal Ministry attributes this decline to border controls, causality remains speculative.

Several less intrusive alternatives exist under EU and national law (without evaluating the efficiency of those):

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<sup>59</sup> Craig and de Búrca, *EU Law: Text, Cases, and Materials* (7th edn, Oxford University Press 2020) 583–586; Frenz, Walter, *Europarecht*, Band 1: Grundlagen und Verfassungsrecht der EU, 2. Aufl. 2011, Rn. 634–640; Case C-55/94 *Gebhard v Consiglio dell'Ordine degli Avvocati e Procuratori di Milano* [1995] ECR I-4165, para 37; Paul Craig and Gráinne de Búrca, *EU Law: Text, Cases, and Materials* (7th edn, OUP 2020) 583–584..

<sup>60</sup> ZDFheute, 'Faeser: Grenzkontrollen notwendig, Kapazitäten am Limit' (12 September 2024) <https://www.zdf.de/nachrichten/politik/deutschland/faeser-grenzkontrollen-migration-sicherheit-eu-kommission-100.html>, accessed 28 April 2025; FAZ, 'Faeser rechtfertigt Grenzkontrollen in Brief an EU-Kommission' (12 September 2024) <https://www.faz.net/aktuell/politik/inland/nancy-faeser-rechtfertigt-grenzkontrollen-in-brief-an-eu-kommission-19979378.html>, accessed 28 April 2025.

<sup>61</sup> *ibid.*

<sup>62</sup> Bundesministerium des Innern und für Heimat, 'Vorübergehende Binnengrenzkontrollen verlängert' (14 February 2025) <https://www.bmi.bund.de/SharedDocs/pressemitteilungen/DE/2025/02/binnengrenzkontrollen.html>, accessed 28 April 2025.

<sup>63</sup> *ibid.*

- Cross-border joint patrols under bilateral agreements with neighbouring states.<sup>64</sup>
- Targeted surveillance using risk profiling, license plate scanning, and PNR data.<sup>65</sup>
- Frontex mobile units and EU-coordinated operations.<sup>66</sup>
- Mobile inland controls under Article 23 SBC.<sup>67</sup>
- Time-limited hotspot operations during specific high-risk periods.<sup>68</sup>

These alternatives can offer flexibility, transparency, and legal clarity. Their limited use raises doubts about the necessity of systematic border controls.

In response to a formal inquiry by the authors, the German Federal Police Directorate Sankt Augustin<sup>69</sup>, which is responsible for the German-Dutch and German-Belgian border sections in North Rhine-Westphalia, provided additional data for the period from 16 September 2024 to 30 April 2025.<sup>70</sup> During this time, 2,100 unauthorised entries and 70 smuggling cases were recorded at the Belgian border, and 1,135 unauthorised entries and 47 smuggling cases at the Dutch border. In total, 126 and 219 outstanding arrest warrants were executed in the respective sectors, alongside the identification of several individuals associated with extremist milieus.

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<sup>64</sup> Bundesministerium des Innern und für Heimat, 'Übersicht bilateraler Polizeiverträge' (2023) <https://www.bmi.bund.de/SharedDocs/downloads/DE/veroeffentlichungen/themen/sicherheit/uebersicht-polizeiabkommen.pdf>, accessed 28 April 2025.

<sup>2</sup> See also European Commission, 'Schengen: Strengthening Police Cooperation' [https://home-affairs.ec.europa.eu/policies/schengen-borders-and-visa/schengen-area/strengthening-police-cooperation\\_en](https://home-affairs.ec.europa.eu/policies/schengen-borders-and-visa/schengen-area/strengthening-police-cooperation_en), accessed 28 April 2025.

<sup>65</sup> Directive (EU) 2016/681 of the European Parliament and of the Council on the use of Passenger Name Record (PNR) data [2016] OJ L119/132; see Statewatch, 'Towards a More Strategic Approach to the EU Visa Policy' (Council doc. 12930/24, 2024) <https://www.statewatch.org/media/4571/eu-council-vwp-2024-09-18-more-strategic-approach-visas-12930-24.pdf>, accessed 28 April 2025.

<sup>66</sup> Frontex, 'Irregular Border Crossings into EU Drop Sharply in 2024' (2025) <https://www.frontex.europa.eu/media-centre/news/news-release/irregular-border-crossings-into-eu-drop-sharply-in-2024-oqpweX> accessed 28 April 2025; see Regulation (EU) 2019/1896 on the European Border and Coast Guard [2019] OJ L295/1, art 10(1).

<sup>67</sup> Regulation (EU) 2016/399 (Schengen Borders Code), art 23; see Case C-368/20 (n 42), paras 80–84.

<sup>68</sup> See European Commission, 'Temporary Reintroduction of Border Control' <[https://home-affairs.ec.europa.eu/policies/schengen/schengen-area/temporary-reintroduction-border-control\\_en](https://home-affairs.ec.europa.eu/policies/schengen/schengen-area/temporary-reintroduction-border-control_en)> accessed 28 April 2025, see also Regulation (EU) 2016/399 (Schengen Borders Code), recital 27 and art 25(1).

<sup>69</sup> BPOLD Sankt Augustin

<sup>70</sup> Bundespolizeidirektion Sankt Augustin, response to inquiry by Melissa Schade, 26 May 2025 (on file with authors).

While these figures indicate active enforcement operations, the Federal Police clarified that further operational details, such as the modes of transport controlled or patterns of enforcement, could not be disclosed for strategic and security reasons. This limitation restricts the extent to which the proportionality of the measure can be externally verified. The absence of transparency and disaggregated data further complicates an assessment of whether less restrictive alternatives, such as mobile controls or intensified cooperation, might have achieved comparable results.

The ultimate step of the proportionality test *stricto sensu* requires a balance between the public interest pursued and the rights impacted.<sup>71</sup> In this last step the question is whether these enforcement outcomes justify the level of rights interference. The limited official data provided by the German Federal Police must therefore be weighed against the restrictions imposed on cross-border mobility and the fundamental right to free movement, as enshrined in Article 21 TFEU and the Charter of Fundamental Rights. In the absence of independent risk evaluations, and without access to meaningful data capable of justifying the scope and intensity of the restrictions, the *stricto sensu* legitimacy of the trade-off remains difficult to verify under EU law. This opacity raises concerns not only under Article 21 TFEU and the Charter of Fundamental Rights but also in terms of legal certainty and democratic oversight.

The measure's suitability is plausible, but its necessity is undermined by the availability of effective, less intrusive alternatives. The empirical evidence and author's observations indicate uneven enforcement and discriminatory tendencies. The cumulative legal, symbolic, and practical burdens cast doubt on whether the current approach is proportionate in the strict sense.

In conclusion, Germany's internal border controls meet the formal threshold of the legitimate aim, suitability, and necessity legitimacy under Article 25 SBC, but they fail to convincingly satisfy the full proportionality test.

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<sup>71</sup> Paul Craig and Gráinne de Búrca, *EU Law: Text, Cases, and Materials* (7th edn, OUP 2020) 585–586; Case C-112/00 Schmidberger v Austria [2003] ECR I-5659, para 80.

### 3.3.2. The Netherlands

Following the 2024 revision of the Schengen Borders Code (SBC), the Netherlands notified the reintroduction of internal border controls from 9 December 2024 to 8 June 2025. This section applies the EU's proportionality test to assess whether these measures comply with Union law, particularly Article 5(4) TEU and Article 52(1) of the Charter of Fundamental Rights (CFR). As discussed previously, the reintroduction of internal borders is justified under Article 25 SBC in the event of a “serious threat to public policy or internal security”.<sup>72</sup> The analysis is structured around the four-step test established by CJEU case law and EU legal principles: legitimate aim, suitability, necessity, and proportionality *stricto sensu*. The primary source for this analysis is the Ministry of Asylum and Migration’s 2025 publication, which outlines the results of the first three months of controls (December 9, 2024, to March 9, 2025).

Regarding legitimate aim, the Dutch government cited increased irregular migration and secondary movements as reasons for the reintroduction of checks, emphasising pressure on the asylum system and cross-border criminality.<sup>73</sup> These justifications were also presented alongside comparative statistics from previous MTV (Mobiel Toezicht Veiligheid) checks.<sup>74</sup>

The revised SBC marks a shift in tone regarding migration. Under the 2016 SBC, large-scale migration, on its own, should not be considered such a threat.<sup>75</sup> In the revision, the particular cautionary phrasing is removed and instead acknowledges that Member States may adopt additional measures to counter irregular secondary movements. This signals a broader recognition of migration-related pressures within the SBC framework. Nonetheless, the revision does not alter the legal threshold under Article 25 SBC: any reintroduction of internal border controls must still be justified by a “genuine, present and

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<sup>72</sup> SBC (n 34) art 25(1).

<sup>73</sup> European Commission, ‘Temporary Reintroduction of Border Control’ (European Commission, updated 10 April 2024) <[https://home-affairs.ec.europa.eu/policies/schengen/schengen-area/temporary-reintroduction-border-control\\_en](https://home-affairs.ec.europa.eu/policies/schengen/schengen-area/temporary-reintroduction-border-control_en)> accessed 23 May 2025.

<sup>74</sup> Minister Faber–van de Klashorst, Beslisnota bij Kamerbrief over resultaten binnengrenscontroles (Tweede Kamer, 21 March 2025) <<https://www.rijksoverheid.nl/documenten/beleidsnotas/2025/03/21/tk-beslisnota-bij-resultaten-binnengrenscontroles>> (no longer available; copy on file with authors).

<sup>75</sup> SBC (n 33) recital 26.

sufficiently serious threat,”<sup>76</sup> as reaffirmed in *NW*.<sup>77</sup> Thus, migration pressures may now more plausibly be cited as contributing to such a threat, but they are not automatically sufficient on their own. The Netherlands must demonstrate that irregular secondary movements, combined with other factors such as cross-border crime or systemic strain on asylum capacity, amount to a serious and immediate risk to public policy or internal security – general references to increased migration do not automatically satisfy this test.

In order for the control measures to be regarded as suitable, they must be capable of achieving the stated objective. The Koninklijke Marechaussee (KMar) conducted border controls in a variety of ways; checks occurred on the road, on trains, and at airports.<sup>78</sup> The preliminary results showed:

- 41,750 persons checked (of which 29,150 were EU citizens);
- 9,900 vehicles checked;
- 250 refusals of entry;
- 90 arrests related to migration-related crimes;
- 30 new asylum requests.<sup>79</sup>

These figures demonstrate some operational capacity to intercept irregular migrants and initiate enforcement measures. However, given the lower yield of enforcement outcomes compared to the prior year’s MTV controls, it remains unclear whether the scale of the newly reintroduced internal border controls is commensurate with the threat identified.

The **necessity** test asks whether less intrusive alternatives could have achieved the same objectives. Article 23 SBC permits police checks near internal borders as long as they are not equivalent to systematic border control. The Netherlands had previously relied on such checks through its MTV operations. From December 9, 2023, to March 9, 2024, MTV checks produced:

- 38,600 persons checked (25,940 EU citizens);

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<sup>76</sup> SBC (n 34) recital 41.

<sup>77</sup> Case C-368/20 (n 42).

<sup>78</sup> Koninklijke Marechaussee, ‘Temporary Reintroduction of Border Control’ (Government of the Netherlands) <<https://english.marechaussee.nl/topics/temporary-reintroduction-of-border-control>> accessed 25 May 2025.

<sup>79</sup> *ibid.*

- 7,710 vehicles checked;
- 260 arrests;
- 100 asylum claims.<sup>80</sup>

These outcomes, achieved without full border controls, suggest that effective tools remained available. Notably, the MTV model led to more arrests and asylum applications than the recent internal border controls, despite operating with fewer checks. This raises doubts about whether the newer measures satisfy the necessity requirement. CJEU jurisprudence affirms that internal border control must be a last resort and must not serve as a substitute for deficiencies in law enforcement cooperation.<sup>81</sup> The Dutch choice to escalate to full internal controls, despite the similar success of less intrusive methods, is difficult to justify under the necessity standard.

Lastly, proportionality requires weighing the public interest achieved against the degree of interference with fundamental rights. First a concern emerges that around 70% of individuals checked were EU citizens, a figure that suggests overbroad enforcement considering its limitation on freedom of movement.<sup>82</sup> While the government has stated border controls “have not had a significant negative impact on the border regions,” the wording does not imply cross-border commuters have not been affected at all. There can still be potential disruptions, even if limited. Furthermore, while ethnic profiling is not legal, academics have flagged concerns that racial discrimination will continue to occur, whether consciously or unconsciously, by law enforcement.<sup>83</sup>

To conclude, while the Netherlands appears to have acted within the revised legal framework of the Schengen Borders Code, it remains uncertain whether the measures fully satisfy the proportionality requirements of EU law. Based on the available data, the government has not yet clearly demonstrated that the threat posed was sufficiently genuine, present, and serious to justify the reintroduction of

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<sup>80</sup> *ibid.*

<sup>81</sup> Case C-368/20 (n 42).

<sup>82</sup> Cases C-188/10 and C-189/10 (n 43).

<sup>83</sup> Erasmus University Rotterdam, ‘Groundbreaking and Necessary: Ban on Ethnic Profiling by the Royal Netherlands Marechaussee’ (EUR.nl, 12 February 2024) <<https://www.eur.nl/en/news/groundbreaking-and-necessary-ban-ethnic-profiling-royal-netherlands-marechaussee>> accessed 25 May 2025.

internal border controls. Nor is it evident that less intrusive alternatives, such as targeted police checks under Article 23 SBC, would have been inadequate. Ultimately, compliance with the proportionality standard will depend on further substantiation, including clearer evidence of the risk, the comparative effectiveness of the controls, and their actual impact on mobility and rights.

Any potential extension beyond June 2025, such as the one notified by the Netherlands from 9 June to 8 December 2025,<sup>84</sup> constitutes a foreseeable prolongation under Article 25a(5) SBC.<sup>85</sup> This is the first extension, following the initial six-month reintroduction period that began in December 2024. While still within the two-year maximum, such prolongations engage heightened scrutiny regarding proportionality. Member States must submit updated risk assessments, evaluate the ineffectiveness of alternative measures such as police checks under Article 23 SBC, and demonstrate that the controls remain necessary in light of evolving conditions.<sup>86</sup> If controls persist beyond this period, the Commission is required to issue a formal opinion under Article 27a(3), marking a shift from national discretion to Union-level oversight.<sup>87</sup> This reflects the revised Code's aim to ensure that internal border controls remain exceptional and do not undermine the core principle of free movement.<sup>88</sup>

While the legal framework outlines the justification for internal border controls, the real test lies in how such measures affect daily life in cross-border regions. Ultimately, proportionality is not just an abstract legal requirement — it is measured by its consequences: whether commuters are disrupted, trust between Member States is strained, and whether regional cohesion is preserved or eroded.

## 4. Empirical Results

To assess the impact and perception of the border controls in the Belgium-Netherlands-Germany border regions, a survey was conducted among individuals affiliated with Maastricht University and their broader networks. The survey was designed by the research team and distributed through the

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<sup>84</sup> (n 5) European Commission.

<sup>85</sup> (n 34) art 25a(5).

<sup>86</sup> *ibid* arts 25a(5), 23; see also art 27(1)(c).

<sup>87</sup> *ibid* art 27a(3).

<sup>88</sup> (n 20) TFEU art 67(2).



university's internal communication channels (faculty's newsletters) as well as through personal communication channels.

The questionnaire considered 32 questions divided into four thematic sections that follow the methodology table. The sections are: general information, experiences of crossing national borders, impact of border controls, and perception of border controls.

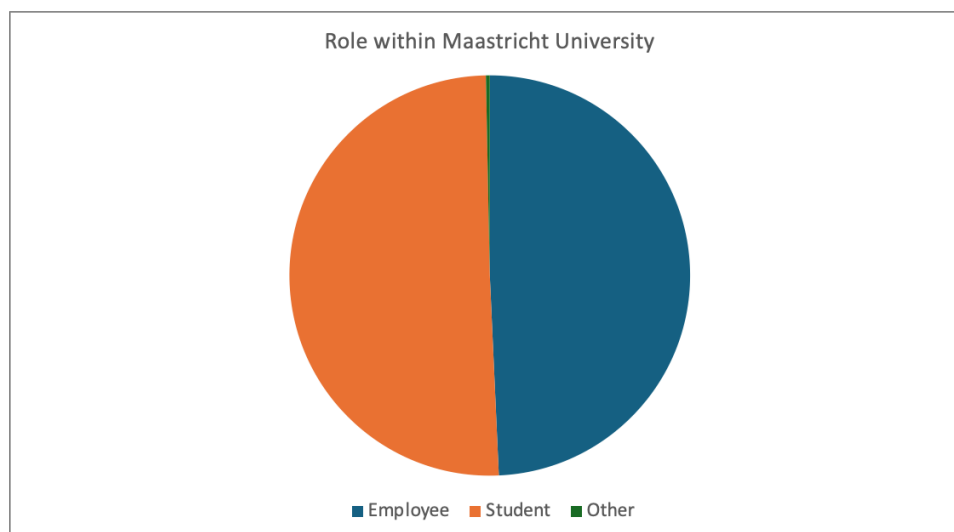
A total of 123 individuals participated in the survey, of which 93 provided complete and valid responses. These 93 respondents constitute the analytical sample used in this study (N = 93).

Moreover, in section 4.5 the results of field trip interviews conducted on the Drielandentrein will be presented. Finally, in section 4.7., the experience with border crossing and border controls of one of the authors will be briefly presented. The findings and their related impact will be analysed in their respective research theme section, meaning they will be discussed in section 6 and 7.

#### **4.1 Demographic and contextual characteristics of the survey respondents**

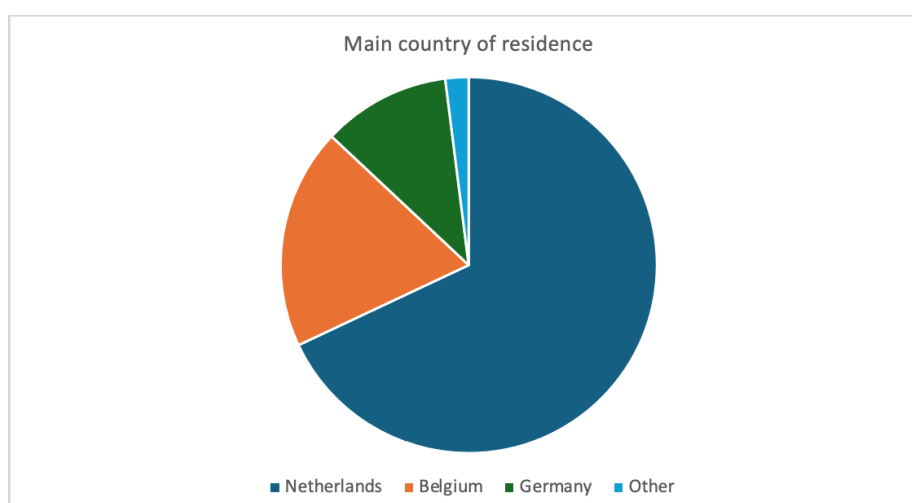
This section aims to provide an overview of the demographic and contextual characteristics of the survey respondents. It outlines who the respondents are, where they live, how frequently they cross borders, for what purposes, and by which modes of transport. Understanding this background is essential for interpreting how border controls may affect diverse groups based on their mobility patterns and cross-border engagement.

A large majority of respondents (97%) reported being affiliated with Maastricht University. Among them, 48% were employees (including academic and administrative staff) and 49% were students, suggesting a balanced representation of the university community. The remaining 3% had no direct affiliation but responded through secondary distribution channels.



**Graph 1.** Role within Maastricht University

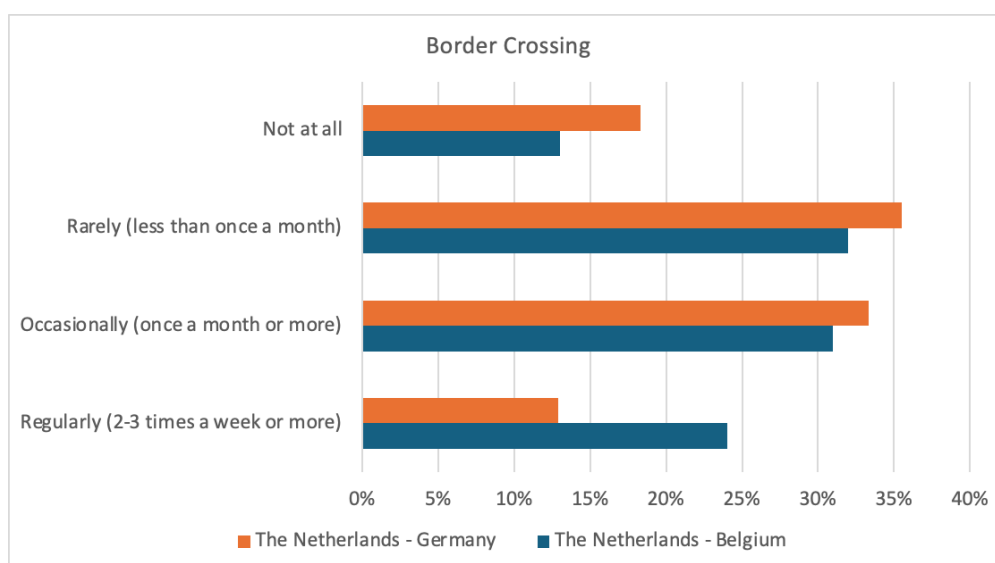
Most respondents reported residing in the Netherlands, which is likely a reflection of the survey's primary distribution base at Maastricht University. This may also explain the high proportion of individuals (66%) who study or work in the same country where they reside. As such, the findings are especially representative of individuals living in Dutch border regions, particularly around South Limburg.



**Graph 2.** Main country of residence

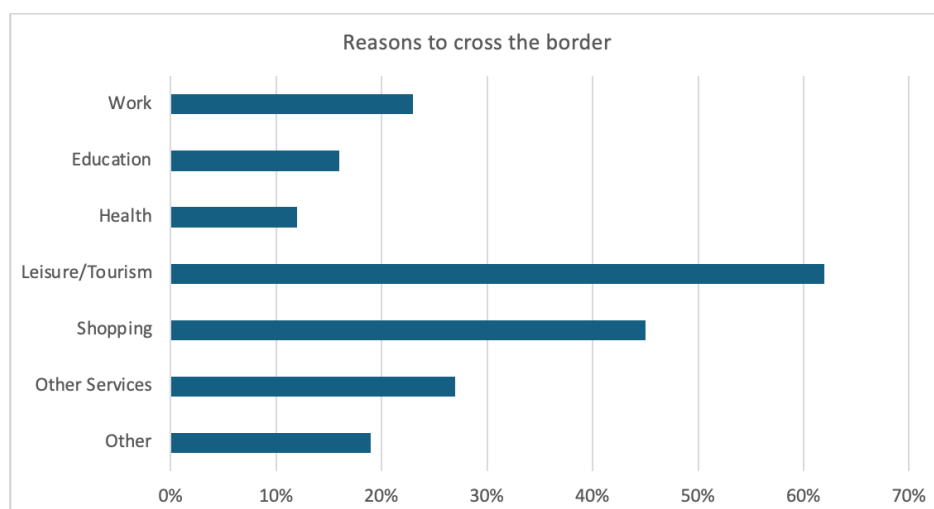
When asked about the frequency of border crossings, most respondents indicated that they cross either the Netherlands–Belgium or Netherlands–Germany border rarely or occasionally. The Belgian

border was crossed more frequently than the German one: 24% of respondents cross the Belgian-Dutch border regularly, while 12.9% reported regularly crossing the German-Dutch border. This shows that most of the respondents that do not live in the Netherlands live in Belgium. This aligns with the fact that Maastricht and thus Maastricht University lies closer to the border with Belgium than the one with Germany.



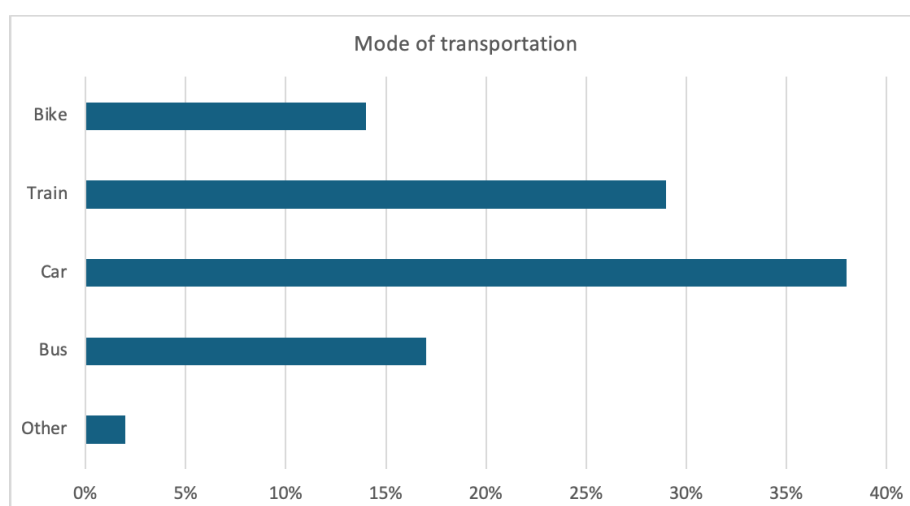
**Graph 3.** Border crossing

In terms of motivations for crossing borders, leisure and tourism emerged as the most frequently cited reason. While some respondents selected “other,” most of these open responses referred to visiting family members, partners, or friends, activities that fall under the broader category of leisure in this survey’s design. Shopping was the second most common reason for crossing the border, while access to healthcare and education ranked lowest. These findings suggest that, for this sample, cross-border movement remains largely discretionary and socially driven, rather than service-oriented.



**Graph 4.** Reasons to cross the border

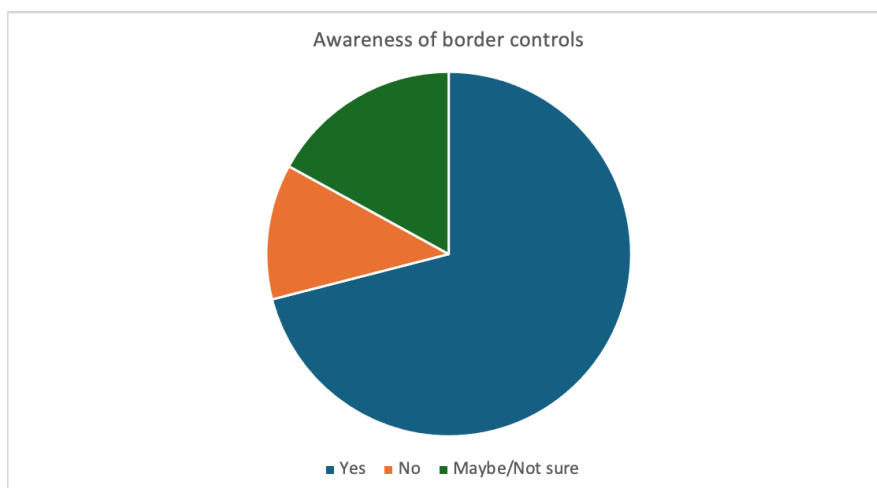
With respect to transport modes, the private car was the most commonly used mode for cross-border travel (37%). However, when combining all forms of public transport in the region, bus and train, these modes actually outnumber private vehicle use. This suggests a relatively strong dependence on public infrastructure for cross-border mobility within the region, particularly among the student population.



**Graph 5.** Mode of transportation to cross the border

Finally, 71% of respondents were aware of the reintroduced border controls between the Netherlands and its neighboring countries. This relatively elevated level of awareness may reflect the increased visibility of border measures in local media or personal encounters with border checks. It also indicates

that changes in border policy have been noticed by a large segment of those living or working in the region.

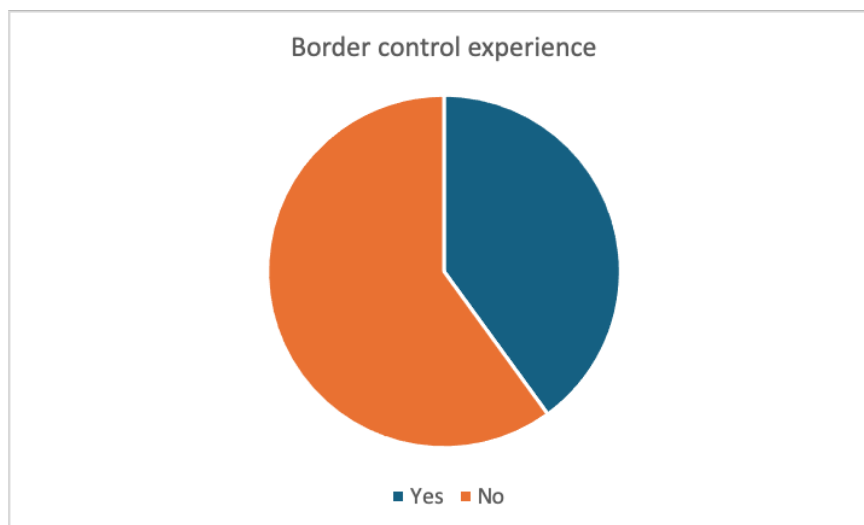


**Graph 6.** Awareness of border controls

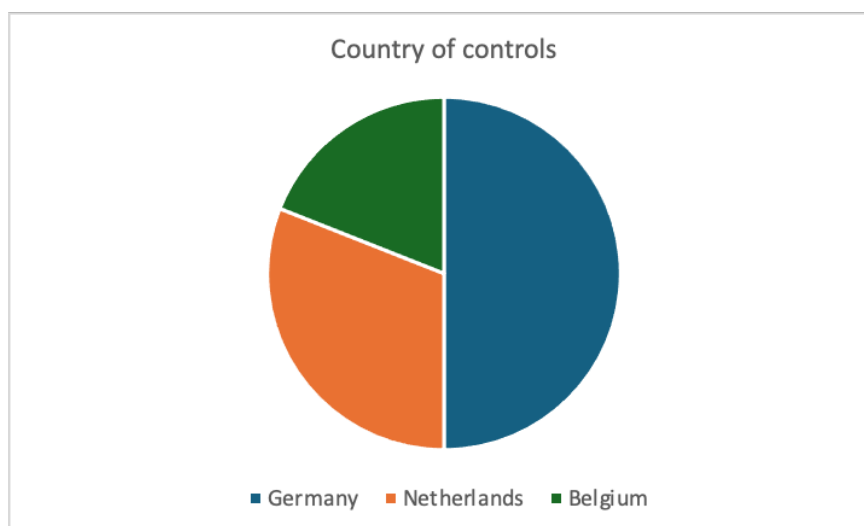
## 4.2 Respondents' experiences of border controls

This section aims to explore the subjective experiences of respondents with border controls in the Belgium–Netherlands–Germany border region. The questions focused on whether respondents had encountered checks, where and how these took place, and how they perceived and reacted to these encounters.

Only 40% of respondents reported having experienced border controls while crossing national borders within the study area. Among these, most controls were encountered either in Germany (50%) or in the Netherlands (31%), which reflects current policy developments. These figures align with the fact that Germany and the Netherlands have reintroduced bilateral border controls, and that the Netherlands has implemented unilateral controls on its border with Belgium.



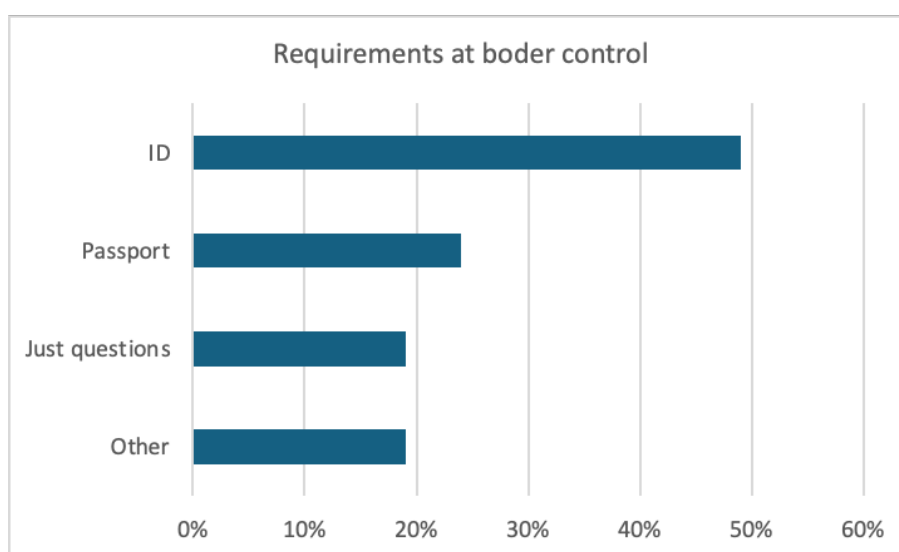
**Graph 7.** Experience of border controls



**Graph 8.** Country of border controls

The most frequently mentioned locations for border checks were on the road *en route* to Aachen, and at the Belgian-Dutch railway border, particularly at the Eijsden station, which is the first Dutch stop coming from the direction of Liège (Belgium) on the Limburg Arriva train line. These sites appear to be hotspots for inspections, possibly due to their function as key cross-border transit points for daily commuters and students.

When respondents were stopped, the most common requests made by border officials included proof of identity, such as an ID card (49%) or passport (24%). A smaller portion of respondents (7%) indicated they were simply asked questions without needing to present documentation. Among those stopped while driving, requests also included driver's licenses and car registration documents, pointing to a more formalized control approach on roads compared to other crossings.



**Graph 9.** Requirements at border control

In terms of how these experiences were perceived, many respondents reported that the controls delayed their journeys and extended travel times. Several noted an increase in the frequency of controls over time, suggesting a growing visibility and normalization of checks in what were previously controlless internal borders. Others commented on the selective nature of controls, raising concerns about potential profiling or inconsistency in enforcement. Some respondents mentioned being surprised by the existence of controls, which further illustrates how unexpected and disruptive they can be in regions accustomed to open borders.

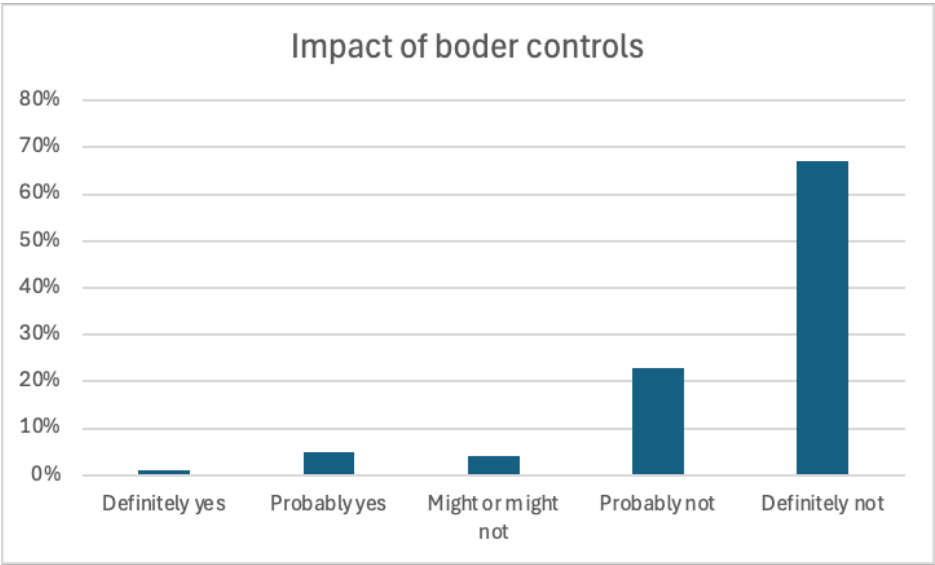
Finally, when asked about their emotional responses to being stopped, the majority of respondents indicated they were “okay with it,” implying a certain level of understanding. However, a considerable proportion expressed feelings of annoyance and anxiety, suggesting that even when accepted, the

experience may still be unpleasant or stressful. Other commonly reported reactions included discomfort and a sense of unfair treatment.

4.3 Impact of border controls

This section explores the impact of border controls on various aspects of respondents’ daily lives, including work, education, shopping, leisure, healthcare, and other cross-border services. It also examines whether the perception of increased controls has influenced people’s intentions or willingness to engage in cross-border activities, even in cases where there is no direct impact.

When asked whether border controls had affected their day-to-day lives, the vast majority of respondents reported no significant disruption. Specifically, 67% responded "definitely not", and another 23% said "probably not", indicating that for 90% of respondents, controls have had little to no effect. Only a small minority (approximately 1%) reported a substantial impact.



Graph 10. Impact of border controls in daily life.

Work

Among respondents who cross the border for work-related reasons (23% of the sample), 76% indicated that the reintroduction of controls has not impacted their professional activities. Interestingly, even among those who did report some level of disruption, none considered changing jobs to avoid the



burden of border checks. However, when asked whether border controls have influenced their aspirations to take on cross-border employment opportunities in the future, all respondents answered affirmatively, suggesting an anticipatory effect that could hinder regional labour mobility over time.

### Education

For those who cross the border for educational purposes (16% of the sample), 100% stated that the new controls have not affected their studies. Furthermore, no respondents reported reconsidering their decision to pursue education across national borders due to these changes. This suggests that existing educational mobility remains stable, at least in the short term, and that cross-border study continues to be perceived as manageable despite occasional disruptions.

### Shopping, Leisure, Tourism

In terms of cross-border activities such as shopping (45% of the sample), tourism, and leisure (62% of the sample), 98% of respondents stated that border controls have not directly impacted their ability to engage in these activities. However, when asked about their willingness or motivation to undertake such trips, responses were more divided. 37.5% reported that their desire to cross the border for shopping or leisure may have been negatively affected, while 25% remained uncertain, and another 37.5% reported no impact. This reveals that while actual behaviour remains relatively unchanged, perceptions and intentions may be shifting, potentially undermining cross-border consumption and social interaction over time.

### Healthcare

Only a small subset of respondents reported accessing healthcare services across borders, 12% of the sample. Among them, none indicated that the increase in controls had influenced their behaviour or willingness to seek care abroad. Given the small number of users, this finding should be interpreted with caution, though it does suggest that border controls have not disrupted existing patterns of cross-border healthcare access. These results may also be due to the fact that the respondents of the survey do not make use of healthcare services across the border.

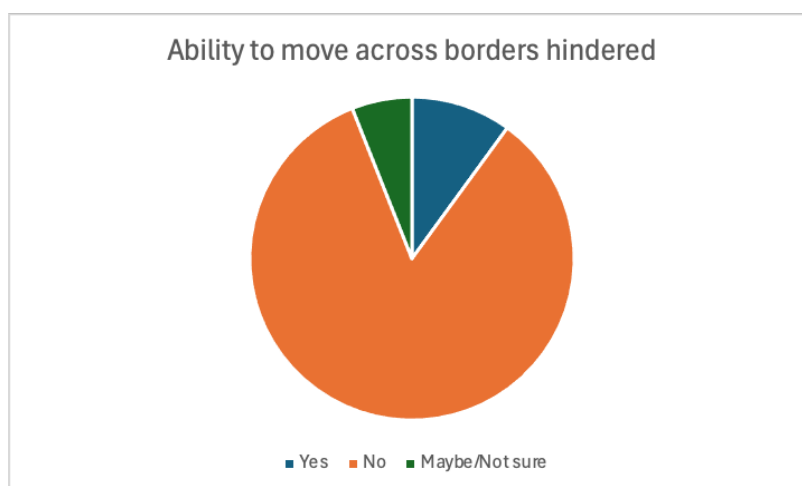
## Other Services

Other services include activities such as cross-border petrol purchases (27% of the sample), often driven by price differences or convenience. Among respondents engaging in this type of mobility, 100% stated that neither access to services nor the motivation to use them has been affected by border controls.

### 4.4 Respondent's perception of borders

This section examines how individuals perceive the re-establishment of internal border controls, and how this perception aligns with their identities and understanding of European integration. It provides insights into the emotional and symbolic implications of the controls beyond their practical effects.

Despite the reported reintroduction of border checks, 84% of respondents stated that their ability to move across borders had not been significantly hindered. This suggests that, in practice, the controls are either not systematic or not perceived as a major barrier by most cross-border regions residents.



**Graph 11.** Ability to move across the border hindered.

When asked about their territorial identification, respondents provided a nuanced view. The most commonly selected first level of identification was the city (33.3%), followed by region as the second choice (37.6%), and country and European identity ranked generally lower. Notably, Europe was most often selected as the last level of identification (40%), indicating a relatively weak European identity among respondents, at least in comparison to more local attachments. Notably, 40% of those who

stated that border controls hindered their cross-border movement considered Europe to be their first level of identification.

However, this apparent contradiction is softened when respondents were asked about their sense of belonging to a cross-border region or society. A significant 76% of respondents indicated a medium to strong identification with the concept of a borderless European space, or a transnational region that spans national borders and cultures. This finding reflects the reality that daily life in the Meuse-Rhine Euroregion and similar cross-border areas often transcends national boundaries, creating a sense of shared space.



**Graph 12.** Identity

Lastly, participants were asked about their perception of the Schengen Area. The overall sentiment was strongly positive. 46% of respondents reported a generally favourable view, while 23% associated it with freedom, highlighting its symbolic weight as a pillar of European integration and mobility. Several respondents emphasized that Schengen is what “makes the EU what it is,” underlining its foundational role in shaping a borderless Europe. At the same time, a small but notable group (6%) expressed concern over the reintroduction of border controls, which they viewed as a threat to the integrity and stability of Schengen and, by extension, the broader European project.

#### 4.5 Field trip interviews on the Drielandentrein: Maastricht-Liège and Maastricht-Aachen

Around 40 persons were interviewed during the field trip, mainly on the Maastricht–Liège railway line, just few on the Maastricht-Aachen one and a few as well at the Maastricht International bus station. Because of the cancellation of the direct train to Aachen due to personnel shortage, we had to take two trains, changing at Heerlen station. Moreover, the interviews were affected by the unusual place in which they were conducted, with passengers having limited time to answer and conduct a linear interview, hence some interviews were cut short or unevenly conducted as this has to be taken in account in analysing the answers and summarising the findings. Nevertheless, the results still maintain solidity and interesting results to be properly analysed.

Among thirteen interviewees declared their place of residence, the majority (ten) reside in Belgium, with one each living in the Netherlands, France, and Switzerland. Five work or study in their country of residence, while seven cross borders for education or employment elsewhere; others travel for tourism, yielding 5 work-related crossings, 6 educational crossings and 4 tourism-related crossings (multiple purposes were permitted).

When asked about border-crossing frequency, this varies: seven respondents cross regularly, four occasionally and four only rarely. When asked about modes of transport, ten reported using the train, seven the car and three the bus (again, multiple answers allowed). Despite this regular movement, awareness of formal border controls was uneven: six knew controls took place, two were uncertain, and four were unaware. Only eight individuals could recall clear experiences of being checked, three confirmed identity checks, and five reported no checks. Of those who had been stopped, one incident occurred in the Netherlands and two in Germany.

In contrast, one regular commuter on the *Drielandentrein* line noted being checked multiple times, including as recently as the previous week (mid-May) and earlier in February. According to them, Dutch authorities usually board the train at Eijsden without any prior announcement and proceed to check IDs without offering explanations. They described the officers as “impolite” and expressed concern over the lack of communication regarding the reason for the checks. Her main worry focused on the potential consequences of forgetting her ID, particularly given the absence of prior notice. She also

questioned the purpose of these checks, expressing doubt that they contribute to any concrete outcomes and suggesting they conflict with the principles of free movement within the EU.

A distinct perspective came from a non-EU national, originally from Cyprus, who lives in the Netherlands and frequently travels to Belgium for work. They reported having experienced controls when traveling from Belgium into the Netherlands and noted that these checks have become more frequent recently. However, they have never faced any issues during these interactions and stated that they appreciate the added feeling of safety that the presence of border authorities brings. A Belgian citizen who regularly commutes to the Netherlands by train has experienced ID checks while entering the Netherlands but mentioned that these have become less frequent over time and do not interfere with her daily life. They described the procedures as limited to identity verification and expressed no strong objections.

Among those traveling by car, one individual who frequently drives between Maastricht and Liège mentioned having been checked by Dutch police on two separate occasions. Another interviewee, a Dutch national who crosses into Belgium by car about once a month, had never experienced a border control personally but had heard of them. They remarked that such practices give them the impression that the Schengen Area is becoming increasingly discriminatory.

Meanwhile, several others reported experiences with border controls on long-distance buses. Two individuals who travelled from the Netherlands to Germany by Flixbus stated that they had been subjected to police checks and noted a pattern of differential treatment. As white Europeans, they felt that the authorities were more lenient with them, implying a degree of discrimination in how the controls were applied.

One frequent traveller between Maastricht and Germany via Flixbus stated that in his experience, the German police conduct checks almost in any of their trips. They did not perceive these checks as problematic. Another individual, who uses buses such as Flixbus and Flibco to reach Brussels Zaventem or Charleroi airports, mentioned never having been checked on those routes but reported regular controls when heading to Germany. They accepted these checks as long as they remained limited to

ID verification and did not become more invasive, such as searching luggage. While they understood that such measures might make others feel safer, they did not believe the controls significantly enhanced security or fulfilled any clear purpose. They also expressed concern that continuing or intensifying controls could jeopardize the principle of open borders within the EU. As a white man, he acknowledged that his personal experience was likely influenced by his appearance and that discriminatory practices were more apparent in car checks than in buses or trains, where all passengers tend to be checked more uniformly.

While a minority viewed the checks as contributing to safety, many felt that they offered little tangible benefit and instead represented a symbolic or politically motivated practice. For some, these experiences created doubts about the coherence of belonging to a supposedly border-free zone, especially when such controls continue to occur with regularity.

A Flixbus driver noted that “in Germany, we would be 100 % stopped, especially on a bus”, adding that spring and summer bring intensified checkpoint activity. The driver made an interesting statement pointing out the uneven behaviour and missing coordination in the methods and procedures applied by police from different countries. In particular, they underlined a difference between German and French police, with the latter lacking any sort of communication or politeness with the drivers as well as with the passengers, furthering controls to luggage. Among those who experienced checks, two were asked about their destination, while five were subjected solely to ID verification. When queried about current trends, three observed an increase in checks, whereas two saw no change.

Non-EU travellers emphasized that forgetting a passport or work permit can result in significant delays, particularly when catching flights, a concern shared by EU travellers as well. Across all respondents, the most common descriptors for their feelings during controls were “bothered,” “loss of time,” “annoyed,” “uncertain,” “unbothered,” that clashed with “I understand why,” and “I see the logic of being checked on crossing a border.”

For most, daily life remains unaffected: nine said controls do not impact their routines, two thought they might, and only one, the Flixbus driver, felt a real hindrance. Likewise, ten felt their movement was unhindered, with just one “maybe.” While a handful admitted feeling safer, many dismissed

controls as “performative theatre” with no tangible security benefit, and some questioned the coherence of enforcing checks within a supposed Schengen-wide free-movement zone.

A separate attempt to conduct interviews on the train from Maastricht to Aachen, through Heerlen, had to be interrupted after a disagreement with Arriva’s train personnel claiming an absence of a permit for conducting research on board. After Arriva’s train personnel informed their headquarters about the interviews, Arriva’s communication officer told ITEM via phone to stop the interviews. Interviews on the train would be only allowed with an official permission from Arriva. On the return journey by bus from Aachen to Maastricht, the team did not experience any form of border control.

However, two interviews were conducted around this route. One Dutch interviewee, who regularly crosses into Germany, and occasionally into Belgium, by car, was aware of border controls and had been checked twice. They noted that checks tend to occur on major roads and described a pattern in which drivers of cars with Belgian license plates or with certain appearances are more likely to be stopped. Although border controls have not significantly impacted their daily life, they acknowledged that such checks can hinder freedom of movement and expressed concern about the reasons behind them, citing terrorism and irregular migration. While they said they feel safer due to the controls, they also felt the need for such measures negatively affected their sense of European belonging. In their view, Schengen is a valuable and ideal concept that should be protected, even if they understand the rationale behind some checks.

The second interviewee, a German citizen who occasionally crosses into neighbouring countries by train, had their ID and visa checked for the first time the previous week. They were not personally bothered, as their legal status was secure, and perceived the controls as “normal,” motivated by the need for security. Though they were concerned about the broader societal reasons necessitating such checks, they did not feel personally impacted. For them, freedom of movement was associated more with daily mobility than with the Schengen framework as such, and they justified the controls as necessary to address undocumented migration.

#### 4.6. Personal Experience of Border Controls

In personal observations by one of the authors (between September 2024 and early 2025), controls were encountered along the A60 corridor (Winterspelt) and A2/A76 corridor (Maastricht-Aachen). At Winterspelt, cars were systematically diverted to checkpoints (albeit this check-point being outside of the Euregio). German-registered cars were often waved through, while vehicles with Eastern European license plates or older appearance were stopped. By the same author, on Saturday evening, 17 May 2025, during a personal trip from Maastricht to Aachen via A4, the vehicle was again diverted onto a designated parking area typically used by customs authorities. This diversion caused an estimated delay of 15 minutes in total. While the checkpoint involved no inspection in this case, the timing was particularly frustrating as the journey had already been delayed. This time two Belgian cars were stopped. These patterns, though anecdotal, suggest indirect discrimination based on nationality or appearance.

#### 4.7. Media on Border Controls

Since the reintroduction of internal border controls in late 2024, media coverage across the Netherlands, Germany, and Belgium has revealed a complex mix of political, economic, and societal concerns. In the Netherlands, official communication has framed the controls as flexible and minimally disruptive, with Immigration Minister Marjolein Faber asserting that the impact on cross-border business would be limited<sup>89</sup>. While reports from *Dutch News*<sup>90</sup> and *NL Times*<sup>91</sup> confirm that traffic delays remain minimal, unlike in Germany, business organisations like the German-Dutch Chamber of Commerce (DNHK) estimate losses of up to €60 million per month<sup>92</sup>. Municipalities near the border have voiced frustration, viewing the measures as regressive and inconvenient<sup>93</sup>. In Germany, the discourse is more security-focused, with officials emphasising deterrence of asylum seekers<sup>94</sup>, though

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<sup>89</sup> Dutch border checks to start on Monday, but will anyone notice? <https://www.dutchnews.nl/2024/12/dutch-border-checks-to-start-on-monday-but-will-anyone-notice/>

<sup>90</sup> *ibid*

<sup>91</sup> Dutch border controls curb illegal immigration; economic impact remains limited. <https://nltimes.nl/2025/06/02/dutch-border-controls-curb-illegal-immigration-economic-impact-remains-limited>

<sup>92</sup> *ibid*

<sup>93</sup> *ibid*

<sup>94</sup> Germany tightens border protections: Facts and figures. <https://www.dw.com/en/germany-tightens-border-protections-facts-and-figures/a-72522930>



critics, including academic voices<sup>95</sup>, label the measures as "gesture politics" that undermine EU support and increase anti-immigrant sentiment in border regions. Belgian media has expressed the citizen's disappointment and concern over renewed border restrictions<sup>96,97</sup>, particularly those imposed by Germany, with *The Brussels Times* and *Euronews* highlighting emotional responses such as frustration and sadness, alongside concrete disruptions to daily life and business. Collectively, the media narratives underscore the symbolic and practical tensions posed by internal border controls, revealing a fragmented and often contested landscape of implementation and perception across the Schengen area. However, a more thorough news analysis is needed to consider all opinions shown by the media as well as the line of thought of the news outlets.

## 5. Evaluation of the European Integration theme

This section assesses the extent to which the reintroduction of internal border controls by Germany and the Netherlands challenges or reinforces the core objectives of European integration, particularly the principles of free movement, the absence of internal borders, and non-discrimination. It considers both the lived experiences of cross-border residents, and the legal frameworks intended to safeguard mobility within the Schengen Area. By combining survey data with legal analysis, the evaluation offers insight into whether current practices support or strain the European project's commitment to openness and cohesion.

Survey findings suggest that, in practice, these measures have had a limited impact on the lived experience of European integration. While 71% of respondents were aware of the reintroduced

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<sup>95</sup> The German border controls are primarily gesture politics. <https://www.uva.nl/en/shared-content/faculteiten/en/faculteit-der-geesteswetenschappen/news/2024/09/the-german-border-controls-are-primarily-gesture-politics.html?cb>

<sup>96</sup> 'Frustrated and sad': Renewed border controls disrupting EU daily life and businesses. <https://www.brusselstimes.com/1471026/frustrated-and-sad-renewed-border-controls-disrupting-eu-daily-life-and-business>

<sup>97</sup> Belgians puzzled and displeased as Germany brings back border controls. <https://www.euronews.com/my-europe/2024/09/11/belgian-discontent-as-germany-brings-in-border-controls>

controls, 84% reported no significant hindrance to their cross-border movements. This indicates that, for most, the practical benefits of integration are still perceived as intact, even under conditions of increased border controls.

Moreover, public perception of Schengen remains largely positive. A majority of respondents associated it with notions of freedom and viewed it as a defining feature of the European Union. This suggests that the idea of a borderless Europe continues to enjoy broad support, particularly among those living and working in cross-border regions where mobility is part of everyday life.

Nevertheless, the survey also revealed emotional responses to border controls, such as uncertainty, annoyance, and discomfort, which should not be overlooked as they are significant in a region where integration and mobility are daily realities. Furthermore, respondents demonstrated relatively low emotional identification with Europe itself: when asked about their sense of belonging, overall, European identity ranked last after city, regional, and national identities. This may reflect a more fragile connection to the EU as a collective identity, despite the continued support for its core policy instruments. Thus, the empirical results show that there is a positive perception of the freedom of movement and constant mobility in cross-border region areas. However, European identity remains a challenge to be tackled by European institutions.

From a legal standpoint, the proportionality and necessity of the controls remain questionable. As discussed in Section 3, the legal framework requires that any reintroduction of internal border controls be strictly exceptional, justified, and proportionate. The analysis concluded that the Netherlands failed to clearly demonstrate the necessity of its measures, and that Germany's prolonged controls raised doubts about their proportionality, particularly considering their duration and scope. In both cases, a lack of access to disaggregated internal data and the absence of verifiable risk assessments limited the ability to fully evaluate compliance with EU law.

These legal shortcomings have broader implications. Border controls, even when legally permitted, can send symbolic messages that conflict with the EU's commitment to unity and openness. If such measures appear arbitrary or unjustified, they may erode public trust in European rights and

institutions, especially in cross-border areas where the tangible benefits of integration are most pronounced.

In conclusion, while the empirical data suggests that freedom of movement remains largely functional, the reintroduction of internal border controls, if not legally well-founded and clearly communicated, risks undermining both the legal and emotional foundations of European integration. Upholding the proportionality principle is thus not only a matter of legal compliance, but also essential to preserving citizens' trust and identification with the European Union.

## **6. Evaluation of the theme of Sustainable/Socio-Economic Development**

This evaluation explores how the temporary reintroduction of border controls influences socio-economic dynamics in cross-border regions, with a focus on the Euregio Meuse-Rhine. Given the important level of integration and daily cross-border interaction in this area, even minor disruptions may affect employment patterns, access to essential services, and regional markets. In particular, the analysis considers how border measures impact daily commuting, economic activity, and perceptions of accessibility in a region that relies heavily on open borders for its prosperity. Understanding these effects is crucial to assess whether such controls risk undermining the economic interconnectedness that lies at the heart of both the Schengen Area and the EU internal market.

Results from the survey suggest that the border controls have had minimal impact in core activities. For work, education, healthcare and other services, the overwhelming majority of respondents did not feel affected. This suggests that short-term economic activity and service access in the border regions (based on the survey sample) have not been affected or disrupted by the controls. Nonetheless, 37.5% of the respondents reported that their desire to shop or leisure across the border may have been impacted. This hints that soft barriers may be forming in people's minds, which could reduce cross-border economic interaction overtime. Moreover, people's intentions to work and study across the border were also not impacted.

The field trip interviews offer additional nuance. Except for time loss because of the border control activities, none of the interviewees expressed any major impact in their daily life, nor the regular commuters for study reasons or those who cross the border because of their work. The same answers were given by the passengers who cross the border for tourism. Therefore, we could understand that the border control procedures as they are currently conducted, considering their intensity, frequency and location do not have a significant impact on the socio-economic development of the Euregio Meuse-Rhine, nor at least on the citizens that choose mainly the train as mode of transport.

From a legal perspective, this limited impact aligns with the proportionality requirements set out in Article 25a of the Schengen Borders Code, which emphasises that any internal border control must be geographically and temporally limited and must avoid unnecessary disruption to the functioning of the internal market.<sup>98</sup> Furthermore, under Article 26(2) TFEU, the EU internal market is intended to function without internal frontiers, making border procedures that interfere with the free flow of labour, goods, and services a matter of legal scrutiny.<sup>99</sup> While the measures do not appear to have disrupted core sectors such as work or education, the reported reduction in cross-border leisure and shopping interest suggests that symbolic or anticipatory effects may still arise, soft constraints which, over time, could undermine regional economic cohesion.

Finally, the findings resonate with broader scholarly insights. Prior research highlights that borders, while often seen as obstacles, also stimulate interaction due to asymmetries between regions, be it in wages, prices, services, or regulations<sup>100</sup>. These cross-border differences drive mobility and economic exchange. However, efficiency in exploiting these opportunities is often constrained by the persistent presence of borders, which continue to limit the full potential of territorial resources<sup>101</sup>. In this context, even temporary or symbolic controls may reinforce inefficiencies and underutilisation of resources in border areas.

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<sup>98</sup> (n 25) Reg 2024/1717 art 25a and recital 43.

<sup>99</sup> (n 11) TFEU art 26(2).

<sup>100</sup> Anton Knotter and Wil Rutten, *Studies over de sociaal-economische geschiedenis van Limburg*, Jaarboek van het Sociaal Historisch Centrum voor Limburg (2003)

<sup>101</sup> Capello, R., Caragliu, A., & Fratesi, U. (2018). Measuring border effects in European cross-border regions. *Regional Studies*, 52(7), 986-996.

## 7. Evaluation of the theme of Euregional Cohesion

This section evaluates the impact of internal border controls on cross-border cooperation and territorial cohesion within the Euregio Meuse-Rhine. It focuses on how these controls influence both the practical functioning of cooperation mechanisms and the symbolic dimensions of regional identity, trust, and belonging. The analysis considers how the reintroduction and implementation of border checks affect public perceptions of the EU and the Schengen Area, with particular attention to the feeling of unity across borders. Drawing on survey results, interview insights and legal analysis, the section explores the extent to which these controls disrupt or reinforce the shared identity and mutual trust that underpin Euregional cohesion.

Survey results suggest that Euregional consciousness remains strong: many respondents identified with the idea of living in a cross-border region or society. This points to a well-established sense of cross-border community, despite the reintroduction of border checks. However, interviews and field observations reveal a fragmented and uneven implementation of these controls. Passengers traveling by train reported rarely being checked, whereas drivers on major roads or passengers on buses, such as FlixBus, frequently encounter controls, often described as ritualised and predictable. However, respondents also pointed out an increase in checks in trains. This suggests that the controls are increasing in all forms of transport. There is a wide perception of arbitrariness in enforcement, especially when shaped by factors such as nationality, mode of transport, or perceived origin, can foster alienation and resentment. This is particularly problematic in regions where mobility and integration are part of daily life.

These discrepancies also raise legal concerns under the Schengen Borders Code, which requires that internal border controls be notified in advance and include information relevant for cross-border coordination.<sup>102</sup> The variation in enforcement practices between the Netherlands, Germany, and Belgium in the Euregio Meuse-Rhine suggests that these coordination mechanisms are either underutilised or insufficiently implemented. In a region defined by daily cross-border mobility, such

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<sup>102</sup> (n 25) art 27.

fragmentation not only undermines mutual trust but also runs counter to the Union's objective of territorial cohesion under the TFEU.<sup>103</sup>

From a governance perspective, the fragmentation of responsibility between Dutch, Belgian and German police units become apparent in the day-to-day. As the Dutch officers' board without prior warning or giving any explanation, at German checkpoints the controls are regular and mainly target cars and buses while the Belgian government has not instructed to conduct any of these measures. These procedural discrepancies indicate a deficiency in the comprehensive integration of protocols among the Euregio Meuse-Rhine partners. The lack of a unified framework governing the circumstances under which, how, and why erodes any cohesion feeling, firstly in the region and secondly in a broader belonging to the Schengen area. Such selective enforcement conflicts with Article 21 CFR, which guarantees freedom of movement and non-discrimination. Moreover, limited transparency regarding notifications to the Commission, such as Germany's, creates uncertainty around legality and proportionality, weakening the legal basis of the controls.

Despite these concerns, most commuters stated that their daily routines were not substantially disrupted. Economic and social activities appear to continue, underscoring the practical resilience of cross-border interaction. Nonetheless, the symbolic cost remains high. Many interviewees described their experiences with words such as "annoying," "alienating," or "unnecessary." Very few expressed support or perceived benefit from the reintroduced controls. This contrast, between minor material impact and significant emotional response, reveals how cohesion is not only about functionality but also about perceived solidarity and mutual respect.

Since 2015, several Member States reinstated border controls in response to security threats, migration pressures, and public health crises; borders have regained their symbolic function as tools of sovereignty and national protection. This reassertion of national borders suggests that they are not merely economic obstacles to be overcome, but multidimensional tools of governance, used strategically to signal control and reassure domestic audiences. These developments raise

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<sup>103</sup> (n 11) art 174 and 175.

fundamental questions about who holds the competence over border management in the EU and whether current practices align with the principles of the EU<sup>104</sup>.

Ultimately, the legal basis is weakened by indefinite extensions, limited transparency, and questionable added value. While public security is a legitimate goal, it cannot justify prolonged controls that undermine core principles of the European Union and Schengen acquis. A shift toward targeted, intelligence-led controls, combined with deeper cooperation in asylum and migration policy, would better preserve security and the freedom of movement that defines the European project.

## 9. Conclusions and recommendations from a Euregional perspective

### 9.1 Substantive Conclusions

In the case of the Euregio Meuse-Rhine, the temporary reintroduction of internal border controls has revealed a stark contrast between the practical resilience of cross-border life and the subtler frictions that such measures produce. Despite systematic checks on roads and trains, an overwhelming majority of residents, students, and employees, continued their daily routines with little measurable delay. Work, study, healthcare access, and leisure travel have, for now, weathered the imposition of controls, demonstrating the depth of infrastructural integration and the adaptability of cross-border networks.

Yet beneath these unbroken flows lies a more ambivalent narrative. Many individuals report feelings of unease, annoyance, or even surprise when confronted with checks that can appear arbitrary in their timing and application. Where some commuters found reassurance in a visible security presence, others experienced these encounters as an affront to the very principle of open borders. Such emotional undercurrents matter: they corrode institutional trust and chip away at the symbolic value of the Schengen ideal, raising questions about whether continued uncertainty might, over time, dampen cross-border aspirations for work or leisure.

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<sup>104</sup> Wassenberg, B. (2020). The Schengen crisis and the end of the “myth” of Europe without borders. *Borders in Globalization Review*, 1(2), 30-39.

The strength of local and regional identities in the Meuse-Rhine Euroregion remains notable, even as broader European identification ranks lower among respondents. This suggests that while people retain a strong attachment to the concept of a borderless European space, the deeper sense of belonging to “Europe” as a political and cultural project is more fragile. If policymakers wish to sustain the legitimacy of Schengen, they must attend not only to the operational efficacy of security measures but also to their symbolic resonance among borderland communities.

Moving forward, any decision to extend or renew internal controls should be accompanied by transparent, evidence-based justifications that clearly demonstrate both their necessity and proportionality. These concerns have already been outlined in the legal analysis. While both the Netherlands and Germany have followed the procedural steps set out in the revised Schengen Borders Code, the actual justification for continued internal border controls remains limited. Proportionality and necessity are not merely formal legal requirements — they must be demonstrated in practice through updated risk assessments and evidence that less intrusive alternatives have been meaningfully considered.

Yet, as the findings of this report suggest, many of those directly affected by these controls remain unaware of their purpose or rationale. This disconnect between legal compliance on paper and lived experience risks undermining the legitimacy of the measures and eroding public trust in cross-border governance. In regions like the Euregio Meuse-Rhine, where free movement is embedded in daily life, legal obligations must be matched by meaningful communication and responsiveness to local perceptions.

From a legal perspective, the reintroduction of internal border controls must be necessary and proportionate in both substance and effect. As outlined in both legal analyses above, the lack of operational and disclosed data as well as the absence of publicly available proportionality assessments raise doubts about the lawfulness of these measures under EU law.

Without verifiable evidence that less intrusive alternatives were considered or that current measures effectively achieve their stated goals, the legal legitimacy of prolonged border controls remains questionable. In a region like the Euregio Meuse-Rhine, where the free movement of persons is a lived



reality, vague justifications and limited transparency not only weaken legal certainty but also risk undermining the symbolic and functional value of European integration.

Equally important is greater coordination among Dutch, German, and Belgian authorities. Harmonised procedures and clear communication can help minimise perceptions of arbitrariness and reinforce a collective commitment to the principles underpinning free movement. This remains a significant gap: nearly all interviewees were unaware of the formal reasons for the reintroduction of controls, nor had they received any clear information from national governments. For this reason, both local and central authorities should consider more actively engaging with commuters and residents — for instance, through targeted surveys or other context-appropriate tools — to better understand public sentiment. This is particularly important in Euroregions, where citizens cross borders regularly and where the preservation of free movement is not only a legal right but a cornerstone of regional identity and functionality.

## 9.2 Outlook

Looking beyond this initial “ex-post” research dossier, a complementary strand of development will be critical for the ITEM Cross-Border Impact Assessment to fulfil its promise as a living instrument for evidence-based policy in the Euregio Meuse-Rhine. In particular, from a methodological point-of-view, the assessment framework must evolve into a system that captures both quantitative flows and qualitative perceptions. Building on the legal benchmarks of necessity and proportionality, future iterations should integrate a larger amount of quantitative data, such counts of vehicles, train passengers and police-check interventions, alongside surveys of residents, commuters, and businesses across the Euroregion. Therefore, the limit of this report was mostly represented by the time available and the accessibility to this data. Unfortunately, the first being little it constrained the amount of data collectible, with the difficulties to collect data which is not public and mostly confidential in the hands of police and interior affairs ministries.

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