



Analysis of the impact of border-related measures taken by Member States in the fight against COVID-19



Giratoire de Mengen in Boulay-Moselle (France), March, 2022.
Photo credit: Thibault Devillard, MOT

Update and follow-up

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EXECUTIVE SUMMARY

As an update and follow-up to the report “Analysis of the impact of border-related measures taken by Member States in the fight against COVID-19” (January 2021), this study assesses two years of border management linked to the pandemic and their impact on border regions, and draws some recommendations for their management in the future, also taking into account the current revision of the Schengen Borders Code. The findings of this study are based on an online survey addressed to Member States and local cross-border cooperation structures. This survey was supplemented by bilateral interviews, and by literature review.

The analysis of border-related measures taken by Member States in the fight against COVID-19, and their effects on persons living in CB regions, has revealed the nature of CB interdependencies, within 6 different spheres: economic (market and funding of public policies); functional (public services); institutional (government/governance); informational (available information and its use by actors); cultural (trust based on common vision and ethics) and interpersonal (role played by persons engaged in families and institutions). Public authorities had no clear view of these interdependencies, and their first reactions when the crisis occurred have mainly taken place within domestic frameworks through trade-offs between these 6 spheres, but turning their backs on each border, resulting in major difficulties in coordinating across borders, and inappropriate, disproportionate, unfair, if not violent border management measures. Thus, border regions were more severely impacted than other territories. Moreover, borders’ real nature and daily functioning have proved to be largely misunderstood, by both public and private actors. The European Commission has reacted appropriately, within the scope of its too limited competences.

The assessment of the effectiveness of the European Commission’s guidelines on free movement of cross-border workers and on healthcare assistance shows that their effect on border closures has not been systematic: for most of the responding states, the Commission's guidelines came after certain measures had been put in place to facilitate the passage of frontier workers, carers or emergency services; and for others the guidelines have had no impact on the national measures taken by their state. Through its guidelines, and by showcasing good practices already in place on certain borders, the European Commission has encouraged states not to systematically close their borders and, when they have to re-establish border controls, to take measures mitigating the effects of such controls on border regions: it has provided a framework for a collective learning process, that it should develop in the future.

The analysis of the evolutions which took place between the first COVID-19 wave and the subsequent waves, in terms of induced border measures, shows that border restrictions have not been applied consistently across borders. The border restrictions in the first wave were much more drastic than in subsequent waves. It

can be observed that most states do not have a holistic, inter-ministerial view of the measures put in place on their borders, and of their effects on border regions. In the first wave, the federal states closed some of their borders initially under pressure from their regions. Some states closed their borders unilaterally in the first wave and pursued a policy of limiting border crossings without consultation with neighbouring states. Smaller states, highly dependent on border crossings, have hardly implemented any restrictive measures at their borders. Some states (such as the Baltic states) cooperating at the regional level have coordinated to ease border restrictions or to reopen their borders at the same time; others have not. Flexibility measures have been introduced by certain states (addressing "cross-border living areas" in France or "border communities" in the Nordic countries).

In order to assess the impacts of the border-related measures on citizens' cross-border interactions, and identifying the emergence of new obstacles, two dedicated analyses have been led. A first analysis is based on an extract file presenting anonymized questions submitted to the Your Europe Advice service. This analysis identifies three kinds of issues that were prevalent during the crisis for the European citizens who tried to cross internal borders – and who are not only residents of border regions (issues linked to cross-border mobility and pandemic circulation restrictions; issues regarding social security insurance and unemployment benefits, exacerbated in the pandemic context; new issues linked to the development of cross-border telework). The second analysis is based on 4 interviews of employees of border information points (bodies informing and supporting inhabitants in their cross-border administrative procedures) and one on-site observation with interviews of cross-border commuters. Indeed, border information points play a key role in assessing the emergence of new obstacles, by being in contact with people living near the national borders. These interviews confirm the difficulties encountered by the local population, resulting at the same time from border-related measures taken during the pandemic crisis and from common cross-border obstacles, and give examples of what could be done in order to support cross-border mobility and help European citizen integration.

This report also looks into the role of all levels of government and of key stakeholders such as EGTCs or euroregions in facilitating (or not) cross-border life in the COVID-19 context. Not surprisingly, the smaller and the more centralised the state, the more prominent was the role played by national governments in all the aspects related to border management and its effects. Intergovernmental forums such as the Benelux Union, the Nordic Council or the Baltic Council of Ministers also allowed for further coordination and for a proper exchange of information at a multi-national level. In order to tackle border issues, new 'crisis management task forces' at national and regional level and informal exchanges between local authorities and other key stakeholders at the local level were the most common coordination forms, even though not all of them were set up from the very beginning of the crisis. Although cross-border coordination has not systematically improved in every border area in the consecutive waves of the pandemic, we can generally witness a real learning process in crisis management along most of the

EU's borders (despite the lack of consideration of CB interdependencies by some MS). Existing local or regional cross-border committees were activated in most cases: while their impact on softening national level restrictions was rather low, they were useful in the implementation of common information tools or in carrying out advocacy activities for raising awareness at the national level of the issues identified locally related to border restrictions. The biggest added value perceived by CB cooperation bodies in their activities was related to information provision and lobbying activities targeting national authorities. However, many stakeholders also mentioned their ability to keep the cooperation spirit alive in a difficult time, while re-building cross-border trust between institutions and citizens. Only a limited share of Member States seized the opportunity to include projects with a clear cross-border dimension within their National Recovery and Resilience Plans. Most of these cross-border projects involve large digital, transport and energy infrastructure investments.

After two years of experiential learning, border management clearly requires reinventing, considering borders not only as lines, but also as zones, as cross-border regions where people live. Future policies should be based on a global 360-degree vision; common accountability of local, national and European institutions vis à vis border inhabitants; horizontal, vertical and diagonal coordination; moving from voluntary co-operation to compulsory collaboration, with CB mandates given to institutions. The following recommendations address two aspects: the local management of the CB region; and the multilevel governance of borders.

CB local governance should be given a greater role in developing CB markets, and managing CB public services, under CB democratic control, building trust through CB information and common vision, shared by persons interconnected through the border. Innovative policies such as CB resident cards giving access to CB services, maintained in case of crises, would make EU citizenship more visible. Local actors should be given more legal capability through decentralisation, differentiation, derogation, experimentation, and increased funding resources beyond Interreg, through coordinated domestic and other European funds.

A bottom-up multi-level governance should be developed, with three dimensions: through a new regulatory framework for the management of borders; through procedural and sectoral reforms; and through new funding approaches, via cohesion policy and co-development. Two European regulations should allow progress. The first one, on the basis of the ECBM draft regulation, should facilitate the solution of CB obstacles. The second one is the Schengen Code revision, which proposes the designation of CB regions by Member States, that would be protected from arbitrary measures of border control.

The design of such CB regions will require better knowledge of CB flows and functional areas, but also, in a context of ecologic transition (mobility regulation, rise of teleworking...) clarification of national, CB and European policy objectives vis-à-vis CB work and economic development, and their social and territorial consequences. New tools, including new EU competences, should be developed in policy

areas such as spatial planning, taxation, health, crisis management, but also education. Given the diversity of borders, and of national contexts (size, decentralisation...), CB arrangements should be bottom-up and specific to each border, building on bi-or multi-lateral treaties or processes. The EU would be in charge of producing general frameworks, designing MS obligations to respect CB regions and to facilitate the solution of CB obstacles, checking their implementation, developing CB evidence and impact assessment of policies, promoting experimentation, collecting good practices, facilitating a network of national border coordination points. The EU cohesion policy would support, with Interreg acting as an incentive, but not the only funding tool. Co-development across the border would allow partners to build a common CB vision, and implement it through CB spatial planning and fair CB funding of necessary CB investments.

The crisis has revealed the limited relevance of national borders. Member States, instead of holding on to exclusive sovereignty within their borders, should exert their sovereignty in common on each border and at the EU level. Only on this condition will they achieve the single market and develop public goods, managing the transitions they have to face, while fully involving citizens.

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CONTEXT OF THE ASSIGNMENT

This report consists of an update and follow-up of the first “Analysis of the impact of border-related measures taken by Member States in the fight against COVID-19”, carried out by Jean Peyrony and the team of Mission Opérationnelle Transfrontalière (MOT) between July 2020 and January 2021. While this first study was focused on the direct effect of the first wave of the pandemic on cross-border communities, the update and follow-up study are dedicated to a general assessment of the situation two years after the breakout of the pandemic and to drawing recommendations for the future, by taking a step back.

In the context of the EU (and its neighbours linked by bilateral agreements with the EU, such as Switzerland), the paradigm initiated by Jacques Delors, which lasted until 2015, was a virtual erasure of the physical border. When in March 2020 the internal borders of the European Union were brutally closed by the states, without coordination between them, the inhabitants of the border regions were affected in different dimensions of their daily life: as economic actors (cross-border workers or consumers) – cross-border mobility was interrupted or severely restricted; as users of cross-border public services (CPS), the first to be interrupted; as citizens, suddenly only nationals – restrictions were based on nationality, not health criteria, and European citizenship forgotten; as informed individuals – information was suddenly no longer available across the border; as individuals inspired by their culture or ethic, because trust was suddenly broken, and the resident on the other side of the border became a danger; as individuals connected within couples, families – because some were separated by the border.

Measures were quickly taken to safeguard cross-border mobility of goods and workers, which was considered essential for the economy. But many inhabitants of border regions have painfully experienced what it means to be reduced to the role of workers, deprived of the right to buy bread on their way home from work, and stigmatised as foreigners in the neighbouring country. Suddenly, authorities forgot that each inhabitant was at once a user of CPS, a citizen, an informed and inspired individual, a parent, and not only an “essential worker”; in short, a “person”¹.

These 6 dimensions of the person correspond to 6 spheres of collective action², 6

¹ In the sense given to this word by the philosopher Paul Ricoeur (Thévenot, 2012).

² These six spheres refer to Boltanski and Thévenot (1991). In order to describe the interactions between actors within the institutionalised frameworks of contemporary societies, they have developed a model based on six spheres of justification: market, civic (or institutional), industrial (or functional), opinion (or informed), inspired (or cultural) and domestic (or inter-personal), which provides a powerful tool for exploring collective action and coordination of institutions. In each country, these six spheres coexist, conflict and compromise through country-specific arrangements that underpin its cohesion. These spheres form a system, balancing each other. Across borders,

dimensions of cohesion, and symmetrically 6 categories of obstacles³ to cross-border integration: economic, functional, institutional, informational, cultural and interpersonal, that we will use as a common thread for the following study.

Figure 0.1: Extracts from the study “The effects of COVID-19 induced border closures on cross-border regions”, 2021



The assignment is carried out in the framework of the European Parliament’s pilot project entitled “**Cross-Border Crisis Response Integrated Initiative – CB-CRII**”, which was submitted in 2020. One of the outputs of this pilot project is precisely an update of the aforementioned study by integrating the follow up to the measures taken in the COVID-19 first wave.

This study was marked by a rather evolving context of the pandemic on the continent. At the very beginning, in January 2022, the pandemic was still a major challenge for the whole European continent: governments were in the process of tackling the new wave linked to the Omicron variant. Although the EU Green Pass was significantly facilitating mobility in the Schengen area, “Re-bordering” options were under consideration by several countries. As an example, the Italian government was the first to announce, as of December 2021, the requirement to present

such arrangements do not pre-exist, and emerge through the progressive institutionalisation of cross-border territories and the construction of Europe (Peyrony, 2014, 2018).

³ The ISIG identified six factors of obstacles to CB cooperation: institutional, administrative, economic, expertise (obstacles linked to lack of knowledge), cultural and "lack of propensity to cooperate", corresponding to the six spheres identified by Boltanski and Thévenot. (ISIG for the Council of Europe, 2013; Peyrony&Faure, 2020)

mandatory tests for people entering the country from all foreign countries, including for fully vaccinated individuals.

As of May 2022, at the time of writing this final report, the rates of contagion are less alarming in all EU Member States and restrictions are being relaxed in all countries. It is also worth noting that the sudden outbreak of war in Ukraine in February 2022, accompanied by numerous repercussions (purchasing power, reception of refugees), has had an impact on the way in which the COVID crisis is now perceived by the actors interviewed.

Although most of the constraints linked with it have been removed in Europe, several states have maintained border controls, in an uncertain global context due to the war. Hence the situation of fully open borders prevailing before 2015 does not seem likely to come back. In the future, crises of different natures (sanitary, security, migration) may recur. This requires more than ever to improve the European governance of borders, as the revision of the Schengen Borders Code intends to do.

The revision of the Schengen Borders Code is another important contextual element entering into synergy with this ongoing assignment. In the draft regulation (dated 14/12/2021), several steps forward for cross-border regions are already apparent. Some key lessons from the aforementioned report on the impact of the first wave of the pandemic have been taken into account in the three articles presented in the Appendix section.

In this context, and via the five tasks listed in the following page, the current assignment will therefore contribute to opening the debate around these developments in order to identify the most suitable solutions for the management of future crises along the EU's internal borders, and more widely governance of borders.

THE ASSIGNMENT: TASK LIST

List of tasks, corresponding to the five chapters of the report

1. Assess whether the **guidelines** (*free movement + Healthcare assistance*) issued by the EC had an effect on border closures
2. Explore and outline possible **evolutions** which took place between the first COVID-19 wave and the subsequent waves when it comes to COVID-19 induced border measures. (*Producing a listing of official political statements issued by different stakeholders can contribute to both tasks 1 and 2*);

3. Assess the impact of the border-related measures on **citizens' cross-border interactions**, and in particular identify the emergence of **new obstacles** to cross-border interactions (this task to be based partly on citizens' questions submitted via Your Europe Service);
4. Assess the **role of all levels of government** and of key stakeholders such as EGTCs or euroregions in facilitating (or not) cross-border life in the COVID-19 context;
5. Draft **conclusions and recommendations** for the future, in particular concerning the governance of cross-border territories, including possible actions to be taken into consideration in **revising the Schengen Borders Code**.

METHODOLOGY

The study was based on both a literature review and a stakeholders' consultation process.

The consultation took place via two main channels:

- on one side, 20 bilateral interviews were carried out with national level administrations, border information points and local cross-border structures. Interviews were carried out by videoconference and lasted between 1 hour and 1 hr 30 min.
- on the other, two online surveys were distributed between February and mid-April 2022 at two levels:

Survey at the National level	Survey at the Local / border level
<ul style="list-style-type: none"> National authorities in charge of European Territorial Cooperation 	<ul style="list-style-type: none"> Local cross-border cooperation structures and EGTCs
<ul style="list-style-type: none"> A few voluntary members of the EGTCUM group 	
<ul style="list-style-type: none"> Permanent representations 	
TOTAL: 6 contributions (AT, EE, LV, DE, ES, NL)	TOTAL: 33 contributions

Some obstacles were identified by the MOT in carrying out the consultation:

- The challenge of **inter-ministerial coordination** to take part in the consultation: depending on the MS, different ministries⁴ are in charge of the follow-up of the different topics (Schengen revision, border management, Interreg, new CB commuters' obstacles, etc.). Most stakeholders argued that they had a **partial view** of cross-border regions and their specific issues.
- A gap between the 'Interreg world' – Managing Authorities (MAs), Joint Secretariats (JS) – and the other territorial stakeholders in the relevance of the answers received. Some answers related to border management received from Interreg MAs, JS do not match the documented findings on border restrictions.
- Engaging with permanent representations represented a major challenge within this assignment, as no contribution was received by any Member State of the EU.

⁴ Depending on the MS: Interior, Foreign affairs, Spatial planning, Social issues, Territorial Cohesion, Finances, Regional affairs, etc.

Figure 0.2: Geography of the respondents and interviewees at the national level



List of interviewees or contributors to the online survey – national level:

Austria

- Representative of the Austrian Federal Ministry of Agriculture, Regions and Tourism

Estonia

- Representative of the Ministry of Finance, European Territorial Cooperation Unit
- Representative of the Ministry of the Interior, Head of Border Guard and Migration Policy Department
- Representative of the Ministry of Finance, Regional Development Department

France

- Representative of the French Ministry of European and Foreign Affairs, in charge of cross-border issues and cooperation
- Representative of the Ministry of Interior, Delegation for European and International Affairs, in charge of cross-border and regional cooperation
- Representative of the National Agency for Territorial Cohesion (ANCT), in charge of European Territorial Cooperation

Flanders (Belgium)

- Representative of the Ministry of the Flemish Community Agency for Home Affairs

Germany

- Representative of the Federal Ministry of the Interior and Community "Cross-border cooperation" Division

Hungary

- Representative of the Ministry of Foreign Affairs and Trade, Head of Department - Cross-border Cooperation Programmes

Latvia

- Representative of the Ministry of the Interior, European Affairs Division

Luxembourg

- Representative of the Ministry of Sustainable Development and Infrastructure, Department of Spatial Planning and Development

The Netherlands

- Representative of the Ministry of the Interior and Kingdom Relations, Cross-border cooperation – COVID

Spain

- Representative of the Ministry of Finance and Civil Service. Spanish National Authority in the Cooperation Programme between Spain and Portugal
- Representative of the Ministry of Finance and Civil Service, Directorate-General for European Funds - National Authority for the CBC Spain-France-Andorra programme (POCTEFA)

Benelux Union Secretariat

- Secretary general
- Policy Advisor Cross Border Cooperation, Labour Mobility and European Funds
- Strategic Coordinator

Complementary strategic interviews:

- Association of European Border Regions (AEBR)
- Central European Service for Cross-border Initiatives (CESCI)
- DG HOME - Migration & Home Affairs

Figure 0.3: Geography of the respondents to the survey or interviewees (local cross-border cooperation bodies and Interreg programmes)



Interviews with cross-border cooperation bodies:

- Representative of the EGTC PIRINEOS – PYRENEES (ES-FR)
- Representative of the Association of Polish Municipalities Euroregion Pomerania (DE-PL)

Interviews with border information points:

- Representative of the Øresunddirekt (DK-SE)
- Representative of the Regione autonoma Friuli Venezia Giulia (EURADRIA Project) (IT)
- Representative of the Frontaliers Grand Est (FR)
- Representative of the Maison Ouverte sur l'Allemagne (MOSA) (FR)

I. CHAPTER 1:

EFFECTIVENESS OF THE GUIDELINES ISSUED BY THE EUROPEAN COMMISSION

A. Introduction

At the height of the first wave of the COVID-19 pandemic, the Commission published guidelines.

On 30 March 2020, the guidelines concerned new practical guidance to ensure that mobile workers within the EU, in particular those in critical professions in the fight against the coronavirus pandemic, can access their workplace. This guidance applies, among others, to those working in the healthcare and food sectors, as well as in other essential services such as childcare, care of the elderly and critical functions for utilities.

On 3 April 2020, the Commission presented guidelines to Member States on border management measures related to health in the context of the COVID-19 emergency. The aim was to protect the health of citizens, to ensure the proper treatment of people who need to travel and to guarantee the availability of essential goods and services. The guidelines set out the principles of an integrated approach to effective border management to protect health while maintaining the integrity of the internal market.

In the context of this assignment, Task 1 was to Assess whether the "Guidelines concerning the exercise of the free movement of workers during COVID-19 outbreak" issued by the European Commission on 30 March 2020 and the "Guidelines on EU Emergency Assistance in Cross-Border Cooperation in Healthcare related to the COVID-19 crisis" adopted on 3 April 2020 had an effect on border closures (lifting of restricting, exemptions, special regimes, etc).

Based on an online survey (see the questionnaire in annex) of local and national stakeholders and a few interviews with national stakeholders, we found it very difficult to measure the impact of the guidelines, especially at state level. However, in some cases we have found evidence of their usefulness.

The first reason is the low number of respondents at national level (10 states: Austria, Germany, France, Luxembourg, Latvia, Estonia, Spain and the Netherlands; 3 organisations: AEBR, CESCO and Benelux).

The second reason is the heterogeneity of respondents at national level. Indeed, in the absence of a holistic approach, different ministries are concerned by diverse

policies having an impact on borders and border regions (border control, support to CBC, regional development, spatial planning, ...); and this can vary from one state to another. Interviewees included representatives of Ministry of the Interior (Germany, Latvia, Netherlands), the Ministry of Foreign Affairs (France), the Ministry of Spatial Planning (Luxembourg, Austria) and the Ministry of Finance (Estonia, Spain).

The third reason is the respondents' lack of knowledge of these guidelines. Some countries replied that they were aware of these guidelines on cross-border work and that they had an influence on national jurisdictions (Estonia, Germany, France). Other states did not know (Austria, Spain). Finally, two states explained that these guidelines have had no impact (Netherlands, Luxembourg).

As regards the health guidelines, a vast majority of respondents do not know whether they have had an impact on national legislation.

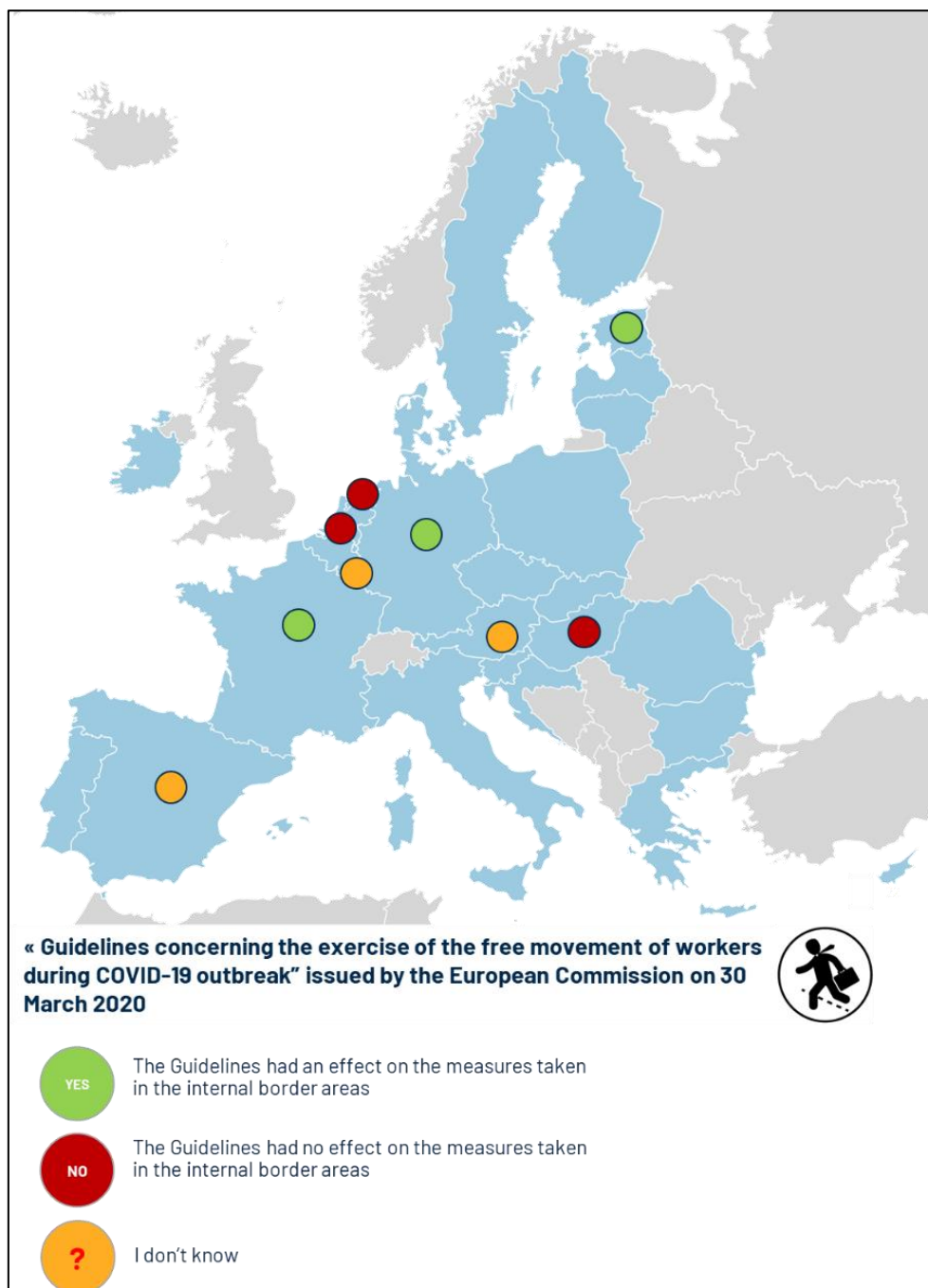
B. The guidelines mainly provided a framework and support for decisions taken by the national level

1. Guidelines on the free movement of cross-border workers

a) At State level

(1) Effect of the "Guidelines concerning the exercise of the free movement of workers during COVID-19 outbreak" issued by the European Commission on 30 March 2020 on the measures taken in the internal border areas (lifting of restrictions, exemptions, special regimes, etc)

Figure 1.1: Geography of the respondents to the survey or interviewees at state level about EU-Guidelines on cross-border workers



At state level, the guidelines seem to have been taken into consideration in France and Germany. The Luxembourgish respondent was not aware of the EU Guidelines ("The CB context is so present in LU that decisions should have been taken anyways"). The Austrian and Spanish ones did not know if the guidelines have been taken into consideration. Benelux, CESCO and the Netherlands respondents considered that the EU Guidelines have had no impact on the measures taken in their countries.

To conclude, we can say that the evidence is scarce and cannot be generalised. However, some information (as explained below) indicates some direct and indirect influence. In some cases, it is said that there was no influence because the borders were not closed. But the EU role may have been preventive. A remedy was not yet needed but the guidelines are likely to have contributed to the continued absence of restrictions.

(2) Examples of national legislation, measures or political statements mentioning the EC Guidelines; impact on legislation and implementation.

In this section, the following are extracts from the quotes of those interviewed or who responded to the questionnaire at national level.

France:

According to the French Ministry of Foreign Affairs and the Ministry of the Interior⁵: “the Guidelines on cross-border workers have facilitated the generalisation of the good practices identified: very long-distance flows (green lanes), cross-border workers, economic flows with neighbours. The Commission has publicised good practice so that everyone is on the same page. It was then more difficult for other countries to deviate from these guidelines without putting forward solid arguments.”

Luxembourg

According to the Ministry of Energy and Spatial Planning⁶ : “the Guidelines might have been sent to the Ministry of Foreign Affairs. Their Ministry was not aware of these guidelines. The cross-border context is so present in Luxembourg that decisions should have been taken anyways.”

Germany:

According to the Federal Ministry of the Interior and Community⁷, “the Guidelines concerning the exercise of the free movement of workers had an effect on the measures taken in the internal border areas. They have been taken into account seriously when deciding on modifications concerning restrictions in border areas. At the beginning of the pandemic, in March 2020, the Federal state decided to

⁵ Interview of the representatives of the Ministry of Foreign Affairs and the Ministry of the Interior, France, 23 February 2022

⁶ Interview of the representative of the Ministry of Energy and Spatial Planning, the Grand Duchy of Luxembourg

⁷ Survey response and interview of the representative of the Federal Ministry of the Interior and Community, Germany, 1st March 2022

reintroduce border controls. The rules were strict with little exemptions for police guards. Then, in the months that followed, the rules became much more diverse across German borders. For example, in winter 2021, the situation was similar for the borders with Moselle (France), Austria and Czech Republic. These rules were influenced by several aspects but also the EU Guidelines. Criteria coming from these guidelines were part of these rules.”

Hungary:

According to the CESCO⁸, the “Guidelines concerning the exercise of the free movement of workers had no effect on the measures taken in the internal border areas, these issues were managed on a bilateral level.”

In the report “Impact of the coronavirus on the border regime” (CESCI, 2021), a section is devoted to the description of the European Commission's guidelines and its impact on Hungary's borders. Concerning the Communication on workers, “by applying the local border traffic regime, both Hungary and its neighbours have ensured the free movement of workers within the geographical limits set. No specific lanes or stickers were designated. The EU guidelines draw attention to the fact that cross-border commuters should be subject to the same conditions for health screening as any other worker in the country, which was not always the case in Slovakia. For screening, the Communication recommends the setting up of testing points around border crossings, which Austria and Slovenia have done, but Hungary has not.”

Estonia:

According to the Estonian Ministry of Finance⁹, “In Estonia in May 2020 was issued the Government Order nr 169 which principles had been developed in Estonia before the guidelines on cross-border workers of the EC were issued. The legislative acts of Estonia were adjusted accordingly after EC guidelines were issued.”

Netherlands:

According to the Dutch Ministry of the Interior and Kingdom Relations¹⁰, the “Guidelines concerning the exercise of the free movement of workers during the COVID-19 outbreak” were not applicable since the Netherlands never fully reintroduced border controls on its borders and has put exemptions in place for people doing cross-border work. The Netherlands does not have national legi-

⁸ Survey response and interview of the representative of the CESCO, Hungary, 9 March 2022

⁹ Survey response of the representative of the Ministry of Finance, Estonia

¹⁰ Survey response of the representative of the Ministry of the Interior and Kingdom Relations of The Netherlands

slation/measures or political statements that specifically mention the EC Guidelines. However, articles 6.7a, b, c and d of the Temporary regulation measures COVID-19 do mention the exemptions which the EC Guidelines refer to.”

Austria:

The Federal Ministry of Agriculture, Regions and Tourism¹¹ has no information about the impact of the Guidelines on cross-border workers. According to the Ministry: “Overall, challenges were encountered, especially at the beginning of the pandemic, in the entry of care-givers from abroad. Regional politicians in particular sought solutions in the form of special train connections to meet the Austrian need for support.

At the national level/ Minister responsible for labour has proposed the review (facilitation) of the relevant law to meet the need also in the longer term: Access to the so called "Red-White-Red Card" should be facilitated for graduated nursing staff (does not necessarily concern the cross-border labour market, as these professionals also come from other parts of Europe, including Romania).”

Spain

The representative from the Spanish Ministry of Finance and Civil Service¹² was not aware of the effect of the “Guidelines on cross-border workers” on the measures taken in the internal border areas.

b) At local level

During the online survey and some interviews, we obtained a number of responses from local structures or actors concerning the impact of the Guidelines on cross-border workers.

¹¹ Survey response and interview of the representant of the Federal Ministry of Agriculture, Regions and Tourism, Austria

¹² Survey response of the representant of the Ministry of Finance and Civil Service. Directorate-General for European Funds. National Authority for the CBC Spain-France-Andorra programme (POCTEFA)

Figure 1.2: Geography of the respondents to the survey or interviewees at local level about EU-Guidelines on cross-border workers

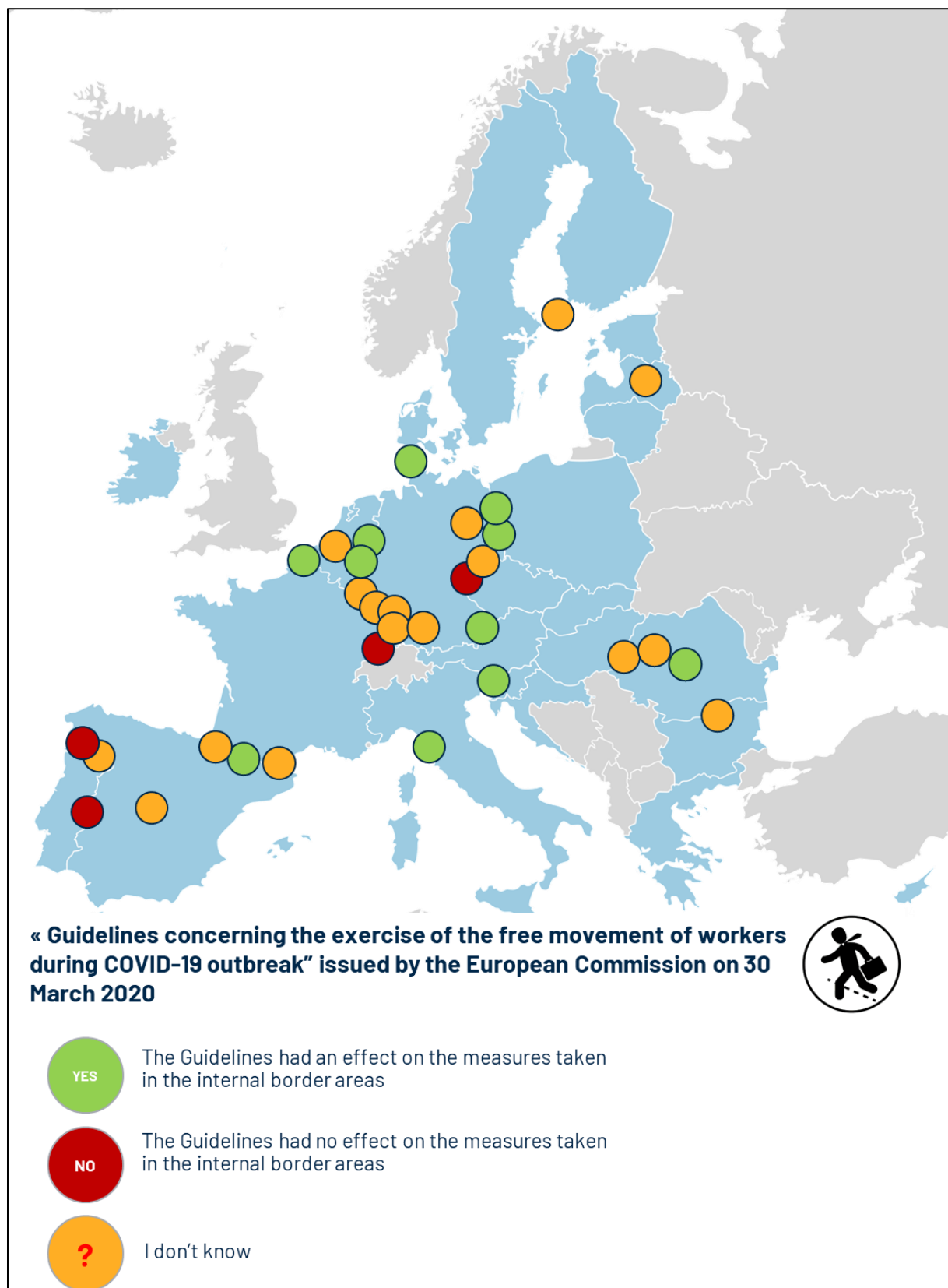
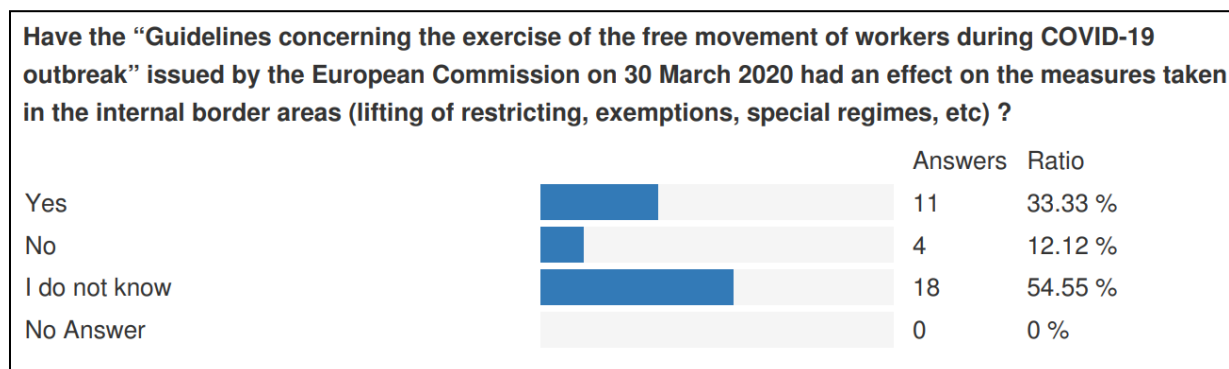


Figure 1.3: Results of the interviews and online survey of local stakeholders about EU-Guidelines on cross-border workers



About a third of respondents (33%) consider that the EU guidelines on cross-border workers have an effect on measures taken on internal borders. Only 12% of respondents answered “no” and more than half of respondents (54%) do not know whether the EU guidelines on cross-border workers have an impact on the measures taken in the internal border areas.

Let us look at the 11 respondents who said “yes” among whom some provided details concerning this issue:

- EGTC GO (IT-SI): no details provided
- Euregio Rhein-Waal (NL-DE): “some restrictions for example for cross border workers where softened”
- EGTC Euregio Meuse-Rhine (NL-BE-DE): “It was an indirect impact, since our countries already decided to have the borders open for workers, etc. Nevertheless, we used it as an argument for more opening.”
- Region Sønderjylland-Schleswig (DK-DE): no details provided
- Euroregion Spree-Neiße-Bober (DE-PL): “Many exceptions were taken into account in the Brandenburg decrees. “Small border traffic” was less restricted than in Saxony and Mecklenburg-Western Pomerania”.
- EGTC Eurometropolis Lille-Kortrijk-Tournai (FR-BE): “Mainly to take into account the population living along the border (see “recognition” of border status) and the possibility for border workers to cross the border in priority sectors.”
- Interreg HU-SK-RO-UA national authority (RO): “Instructions issued by the Romanian National Authority to Romanian project beneficiaries. They impacted only the Romanian project beneficiaries, at programme level”
- Interreg V-A - Germany/Brandenburg-Poland (DE-PL) joint secretariat:

"Law and Ordinance Gazette for the State of Brandenburg Part II – Ordinances Volume 31 Potsdam, 3 September 2020 Number 73 Second Ordinance Amending the SARS-CoV-2 Quarantine Ordinance Of 3 September 2020": There were exemptions for inhabitants and" some workers of border region. Documents were required confirming the occupation and workplace".

- Region Toscana / Interreg Italy-France Maritime 2014-2020 (IT-FR): no details provided
- Working Community of the Pyrenees / Interreg POCTEFA managing authority (FR-ES): "Cross borders workers could cross the border"
- Government of Upper Austria / Interreg AT-DE managing authority (AT-DE): no details provided

In conclusion, we note that for the majority of respondents at local level, measures for the free movement of cross-workers had been taken at bilateral level before the guidelines were published (ex: NL-BE-DE; DE-PL; DE-FR; ES-FR...).

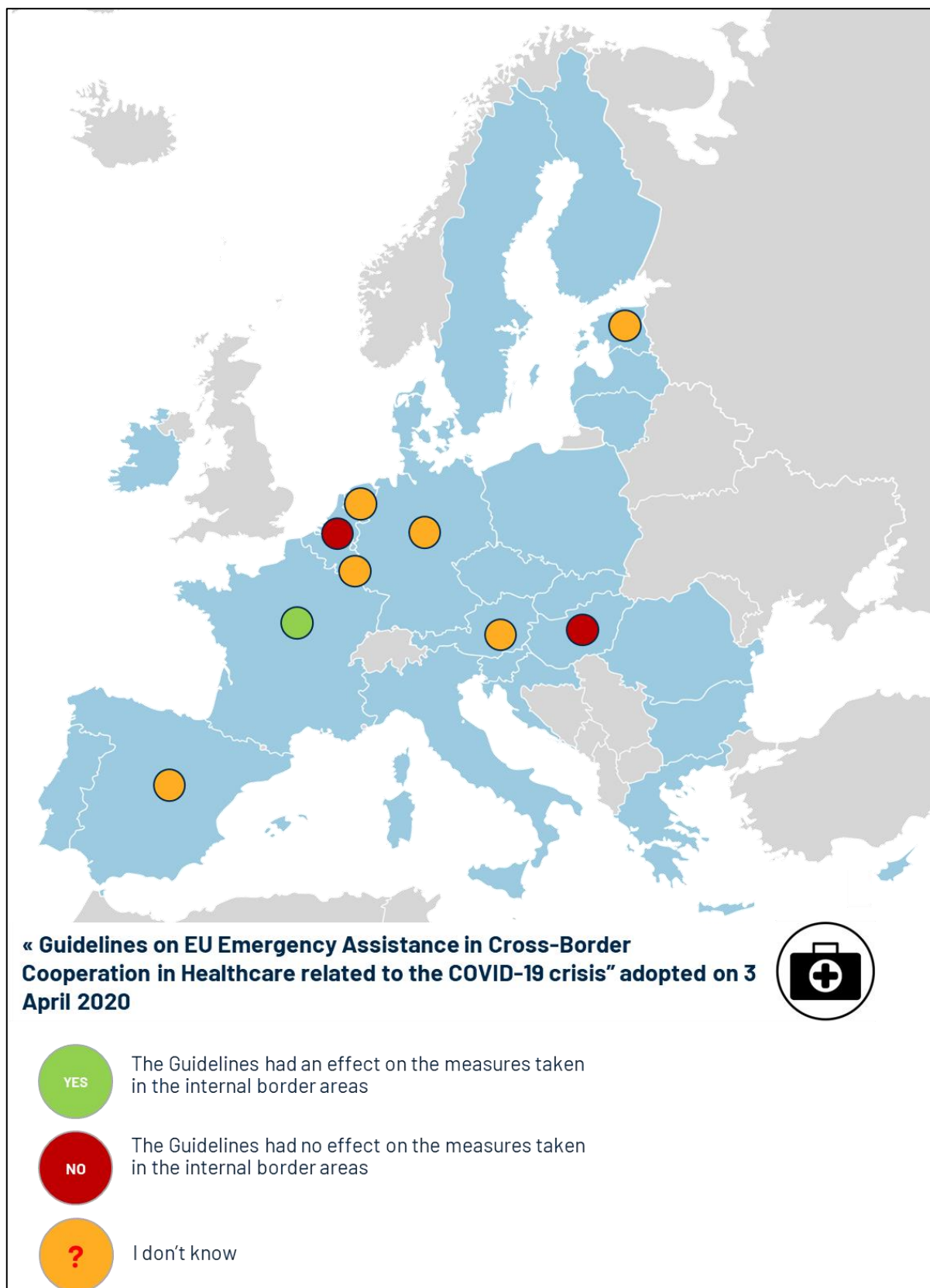
If we make a comparison with the responses received at national level (see previous section), we obtain significantly more positive responses from the local level. Were the structures at local level better informed about the existence of the guidelines on cross-border workers than their national authorities? If we take the example of Germany, the 'yes' answers from the local level corroborate what the national level says. But they confirm that certain measures have been taken at Land level (e.g., the Brandenburg Law of 7 September 2020) to facilitate the free movement of frontier workers. However, these measures may have varied from one Land to another. We can draw an intermediate conclusion by saying that the monitoring of the application of the guidelines on cross-border workers has not been carried out systematically by the national authorities and when it has been carried out, the information does not seem to have been transmitted to the local authorities. The question of national monitoring of cross-border cooperation by the states has to be raised.

2. Guidelines on EU Emergency Assistance in Cross-Border Cooperation in Healthcare

a) At State level

(1) Effect of the “Guidelines on EU Emergency Assistance in Cross-Border Cooperation in Healthcare related to the COVID-19 crisis” adopted on 3 April 2020 on the measures taken in the internal border areas (lifting of restrictions, exemptions, special regimes, etc)

Figure 1.4: Geography of the respondents to the survey or interviewees at state level about EU-Guidelines on cross-border healthcare



According to the French Ministry of Foreign Affairs, Health solidarity actions (e.g. transfers of French patients to Germany) had been taken before the publication of the Guidelines. Moreover, the Commission has taken up these examples in its Guidelines as good practices to be implemented on all European borders. This was a way of getting the other States to move by using proof by example.

In Germany, “application of the Guidelines on EU Emergency Assistance in Cross-Border Cooperation in Healthcare related to the COVID-19 crisis is in the competence of the German regional level (Länder), not of the national level.”

The Luxembourgish respondent was not aware of the EU Guidelines (“The CB context is so present in LU that decisions should have been taken anyways”).

The respondents from Benelux, Austria and CESCO consider that the EU Guidelines have had no impact on the measures taken in their countries.

(2) Example of national legislation, measures or political statements in your country mentioning the EC Guidelines, their impact on legislation and implementation*

This section is based on the information received during the survey. Only the representatives of Germany and the Netherlands provided information.

Germany:

For the Federal Ministry of the Interior and Community: “Application of the Guidelines on EU Emergency Assistance in Cross-Border Cooperation in Healthcare related to the COVID-19 crisis is in the competence of the German regional level (Länder), not of the national level.” The federal government is therefore not aware of the impact of the Guidelines on health, which is the responsibility of the Land.

Netherlands:

According to the Dutch Ministry of the Interior and Kingdom Relations: “Temporary regulation measures covid 19: (EU) nr. 604/2013;(EU) 2021/953” have been implemented in the Netherlands.

b) *At the local level*

During the online survey and some interviews, we obtained a number of responses from local organisations and actors concerning the impact of the Guidelines on cross-border health.

Figure 1.5: Geography of the respondents to the survey or interviewees at local level about EU-Guidelines on cross-border healthcare

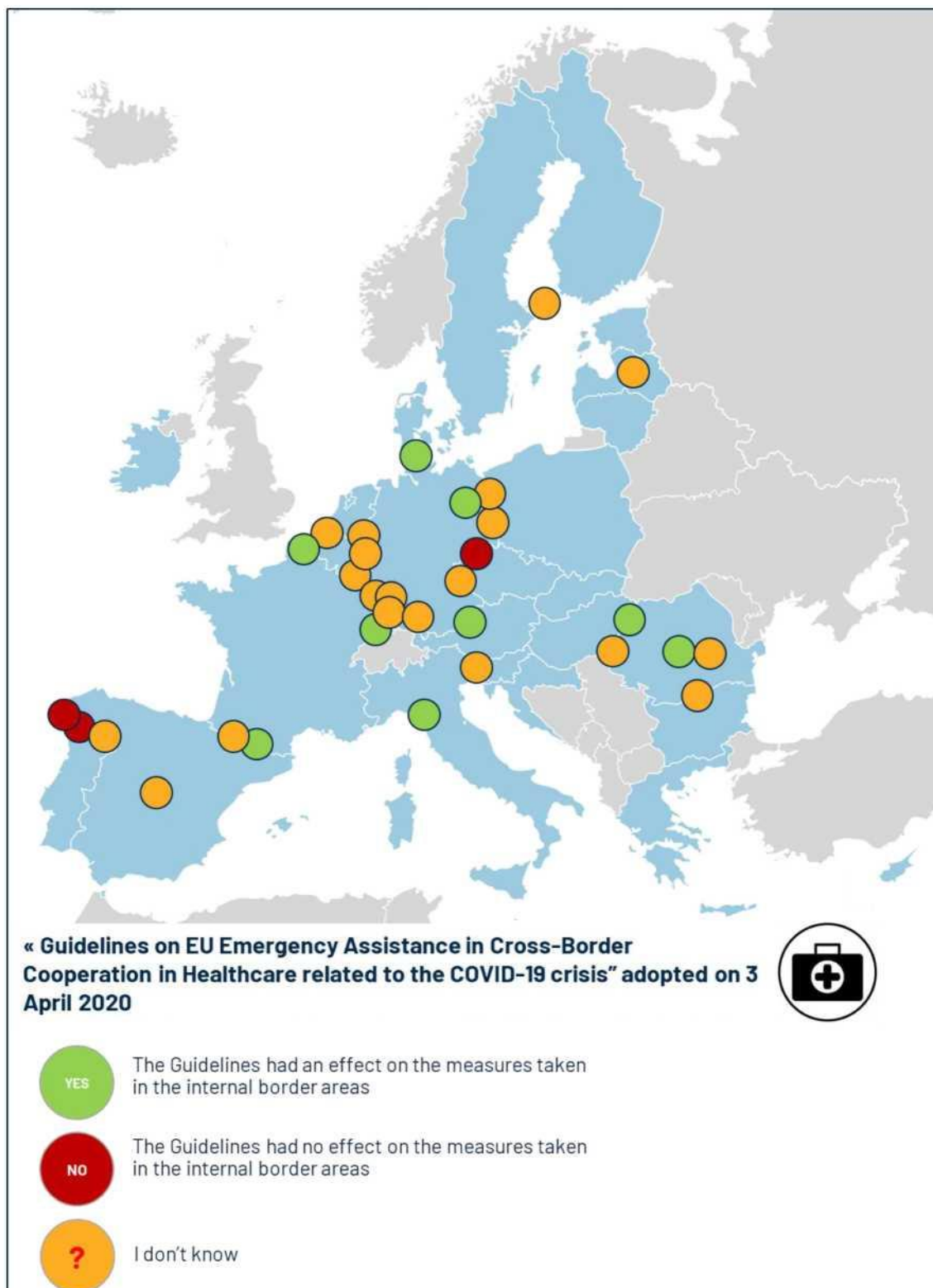
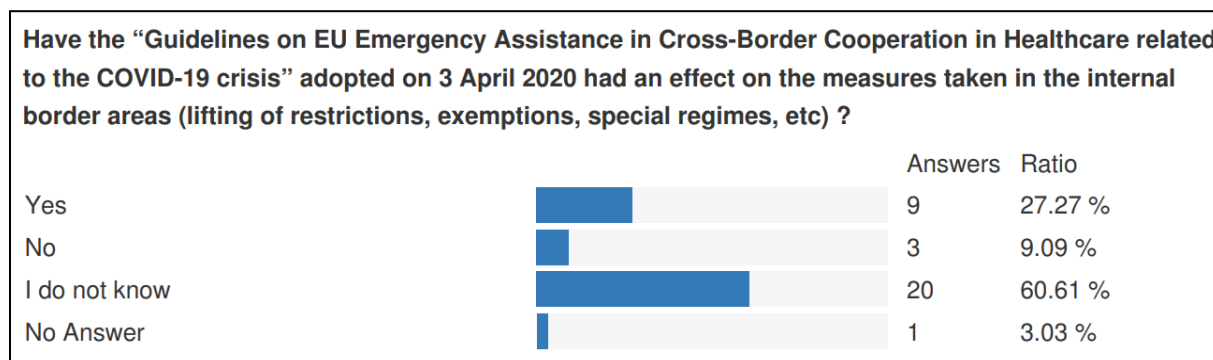


Figure 1.6: Results of the interviews and online survey of local stakeholders about EU-Guidelines on cross-border healthcare



Less than a third of respondents (27%) consider that the EU health guidelines have had an impact on the measures taken on internal borders. Only 9% consider that the EU Guidelines did not have impact. More than 60% of respondents do not know whether the EU health guidelines have an impact on their cross-border territory.

Let us look at the 9 respondents who answered “yes” among whom some provided details concerning this issue:

- Regio Basiliensis (FR-DE-CH): “Reception of French patients by German and Swiss hospitals”¹³ Germany, Switzerland, and other countries have offered to host French patients with COVID-19 in intensive care in their hospitals, particularly in the Grand Est region, which has been hard hit by the epidemic”.
- Region Sønderjylland-Schleswig (DK-DE): no details provided
- EGTC Eurometropolis Lille-Kortrijk-Tournai (FR-BE); “The continuation of agreements on cross-border health care areas. For the French side, recently with the adoption of the 3DS Law.”
- Ministry of Development, Public Works and Administration of Romania, National Authority (HU-SK-RO-UA): “Instructions issued by the Romanian National Authority to Romanian project beneficiaries. The instructions impacted only the Romanian project beneficiaries, at programme level”.
- Region Toscana / Interreg Italy-France Maritime 2014-2020 (FR-IT): no details provided
- Working Community of the Pyrenees/ Interreg POCTEFA managing authority (FR-ES): no details provided

¹³ <https://www.france-allemande.fr/COVID-19-Accueil-de-patients-francais-par-les-hopitaux-universitaires-de-Kiel.html>

- Government of Upper Austria / Interreg AT-DE managing authority (AT-DE): no details provided
- Land of Brandenburg, Ministry of European Affairs (DE-PL): no details provided
- Regional Office for Cross-Border Cooperation Oradea for the Romania-Hungary Border (RO-HU): no details provided

In conclusion, it can be said that the EU health guidelines have been less well perceived than those for frontier workers. Comparing the responses from the national level (see the relevant section) with the responses from the local level, we can see that the local level seems to be more informed than the national level. However, the few positive responses from local cross-border bodies do not provide any precise information on the impact that the EU guidelines have had on the measures taken. These measures seem to have been taken before the publication of the guidelines and do not seem to have any correlation.

Moreover, these results also confirm the report of the European Court of Auditors¹⁴, which found that the Commission monitored the restrictions on free movement imposed by Member States, but that the limitations of the legal framework made its supervisory role more difficult, and that the Commission did not carry out proper checks to ensure that internal border controls complied with Schengen legislation. As regards the role of Member States, the report points out that their failure to provide essential information has prevented the Commission from rigorously assessing the compliance of internal border control measures with the Schengen legislation. In this section we also noted a lack of communication between the national level and the cooperation bodies at local level concerning the application of the EU guidelines.

3. Conclusion

In general, we can note a lack of knowledge of the EU Guidelines by both national and local respondents. Among the actors who answered positively to the questions on the impact of the Guidelines on the measures taken, those at local level seem to be better informed than those at national level. This apparent paradox might be explained by the fact that local authorities were more aware of the issues than national ones, and were expecting help from the EU. One can legitimately wonder about the dissemination of information on these guidelines within the different ministries of each state, about the lack of coordination between them, but also about the quality of the information provided.

¹⁴ European Court of Auditors, Free movement in the EU during the COVID-19 pandemic, Limited scrutiny of internal border controls, and uncoordinated actions by Member States, 2022

By comparing the national and local level responses, some paradoxes were highlighted: for example, DE-CZ (the EU guidelines on Cross-border workers had an effect for the German national level but not for the cross-border structure at local level); HU-RO (the EU guidelines did not have an effect for the Hungarian national level but did have an effect for the cross-border structure at local level); etc.

For most of the responding states, the European Commission's guidelines came after certain measures had been put in place to facilitate the passage of frontier workers, carers or emergency services and for others the guidelines have not had an impact on the national measures taken by their state (FR, NL, DE, LU...).

But it is regrettable, as the report of the European Court of Auditors points out, that the limitations of the legal framework have made it difficult for the European Commission to supervise the restrictions on free movement imposed by the Member States and thus the application of the EU guidelines on frontier workers and cross-border health.

It can be seen that most interviewees at state level do not have a comprehensive view of measures in place at their borders. Through its guidelines, the European Commission has tried to encourage states not to systematically close their borders by setting an example of good practices already in place on certain borders: it has provided a framework for this collective learning.

In the present state of EU legislation, within its competences, the European Commission played its role in encouraging the Member States to take into account measures to attenuate border controls via the establishment of a collective learning process. In the future, an extension of its role is expected by many stakeholders. Chapter 5, below, will present the study's recommendations in this regard.

II. CHAPTER 2:

EVOLUTIONS IN BORDER MANAGEMENT AFTER THE FIRST WAVE OF THE PANDEMIC

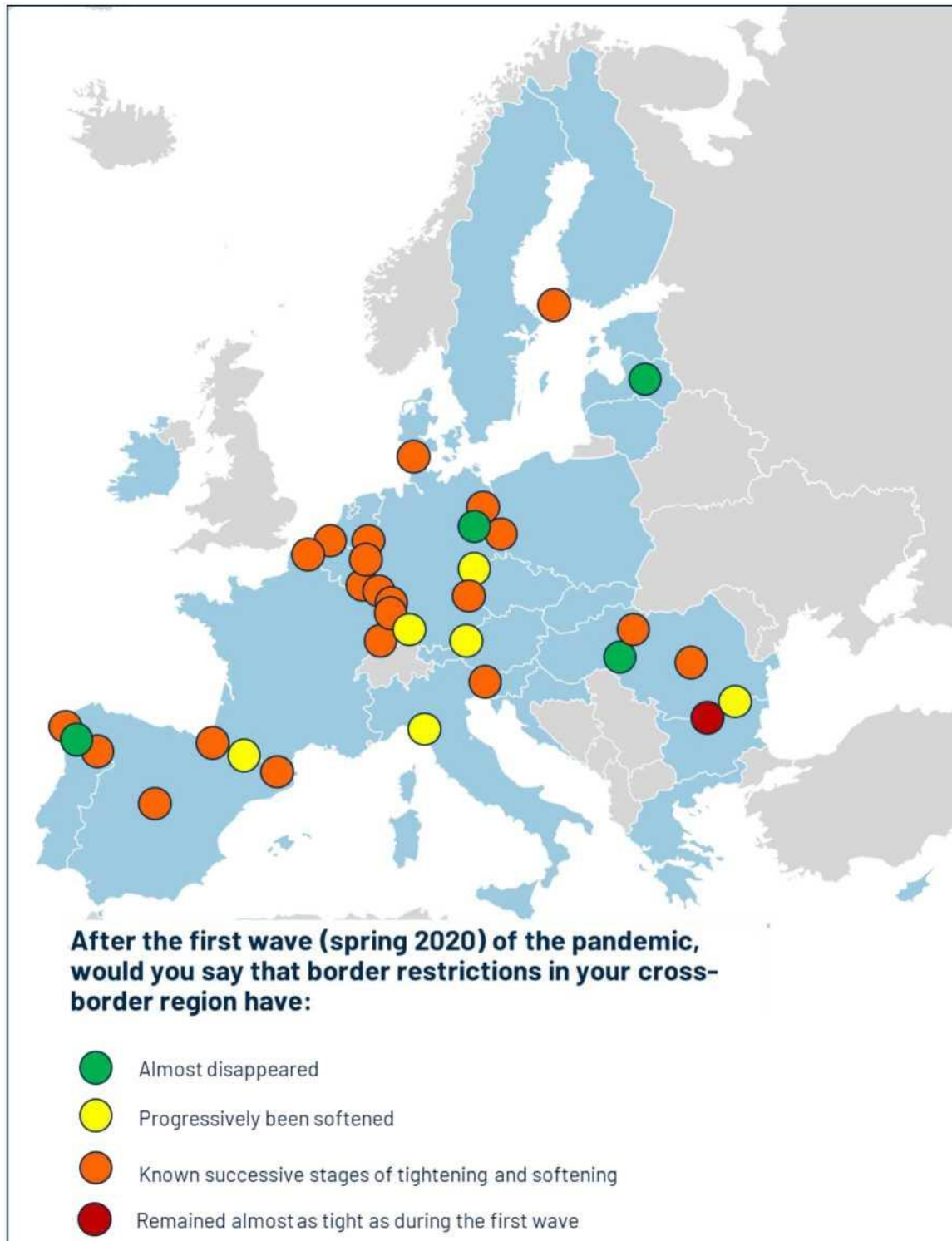
A. Introduction

Task 2 of the assignment, presented in this chapter, consisted of exploring and highlighting possible developments that took place between the first and subsequent waves of COVID-19 with regard to COVID-19-induced border measures. The work was based on the online survey, interviews with authorities as well as extracts from specialised publications on Covid management in cross-border areas, official documents (Ministries, etc.) or information websites on border control. For the state-by-state analysis, this chapter is mainly based on the answers obtained at national level or on certain publications. The other European countries have not been covered due to lack of information.

In Parts I. II. and III. the analysis is mainly based on the responses of local authorities to the online questionnaire. Part IV. is based on the responses of national level authorities obtained through interviews and the online survey, supplemented by information from official publications. In this section we have tried to highlight the contrasts that exist between local and national level responses. Part V is based on the responses of national level authorities obtained through interviews, supplemented by information from official publications. And in Part VI, we try to draw the main conclusions from this chapter.

B. Evolution of border restrictions in the cross-border regions after the first wave (spring 2020) of the pandemic

Figure 2.1: Geography of the respondents to the survey or interviewees at local level about border restrictions



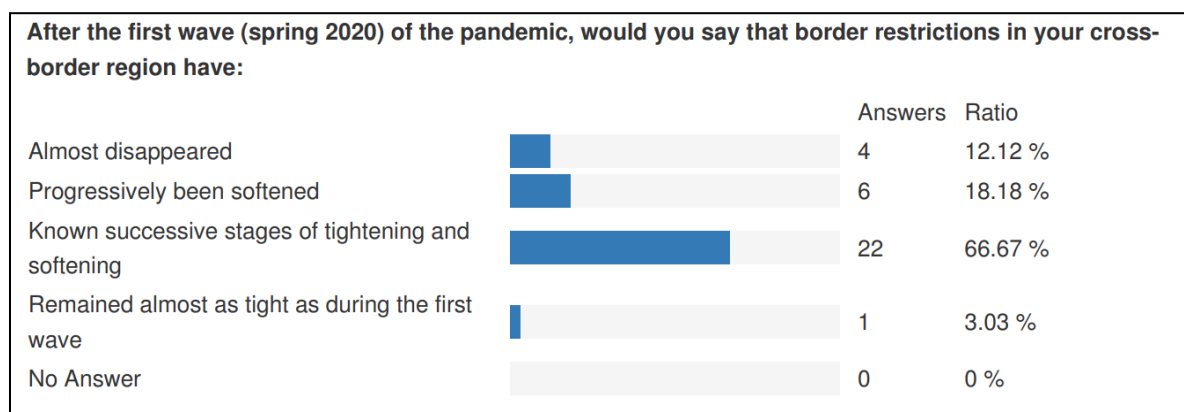
This map shows the perception of the restrictions according to the answers given

by the respondents to the online survey at local level.

The responses provided by local level bodies can appear contradictory on the same border (e.g., RO-BG; PL-DE; FR-ES or PT-ES). The perception of restrictions may be personal or may vary depending on the section of the border where the organisation is located.

Furthermore, this map shows that on most of the northern and western European borders, border restrictions have gone through successive phases of tightening and easing. On some borders in central and southern Europe, respondents said that border restrictions seem to have been progressively softened (e.g., FR-ES; IT-FR; CH-DE; CZ-DE or AT-DE) and 4 respondents say that restrictions have almost disappeared since the first wave (PT-ES; DE-PL; EE and RO-HU).

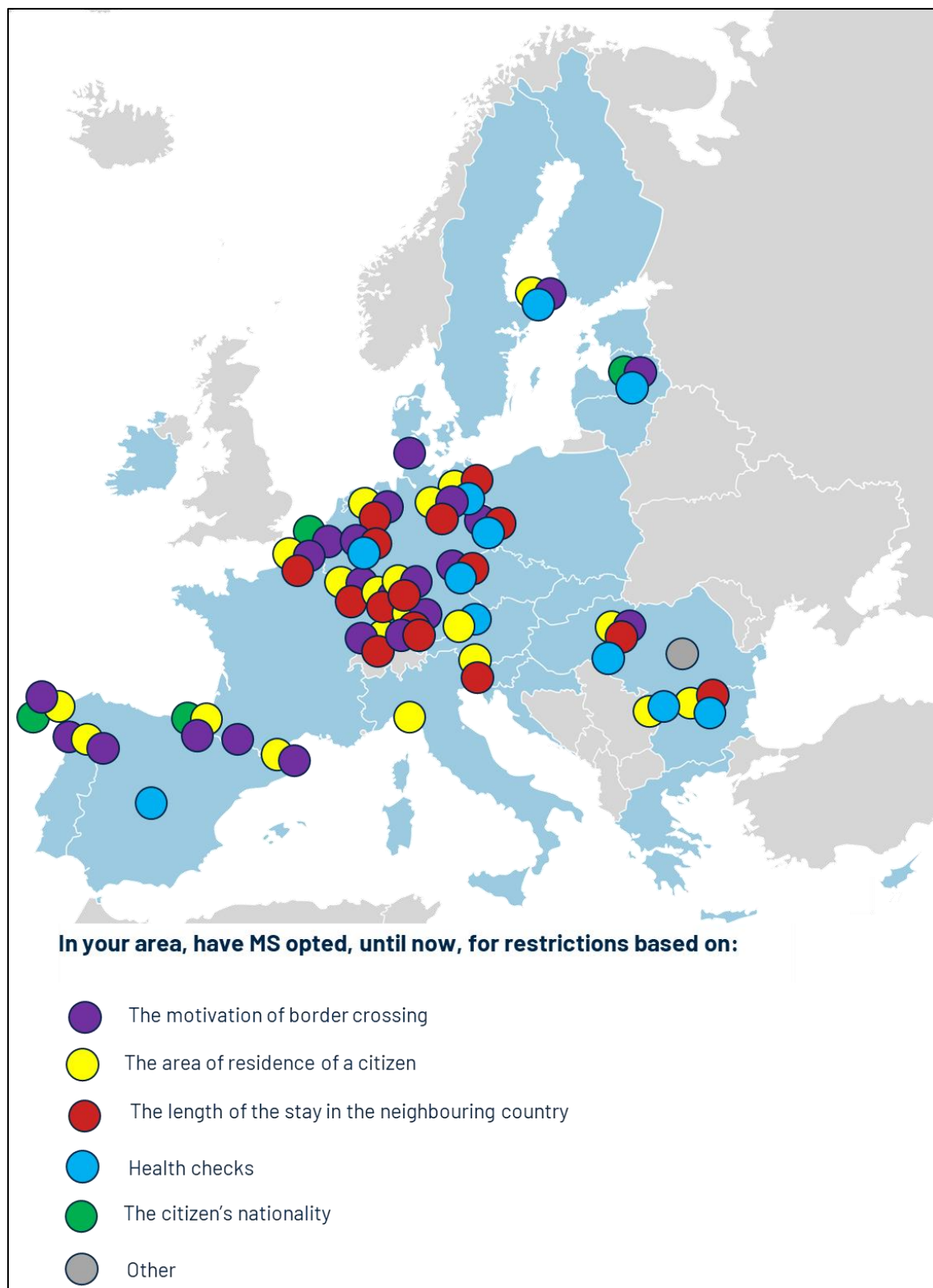
Figure 2.2: Results of the interviews and online survey of local stakeholders about border restrictions



Two thirds of respondents (66,6%) consider that restrictions in their cross-border region have known successive stages of tightening and softening. 18% consider that restrictions have progressively been softened, 12% that they almost disappeared and 3% that they remained almost as tight as during the first wave. The main message is that the restrictions of subsequent waves were never as strong as those of the first wave.

C. Types of restrictions decided by the Member States

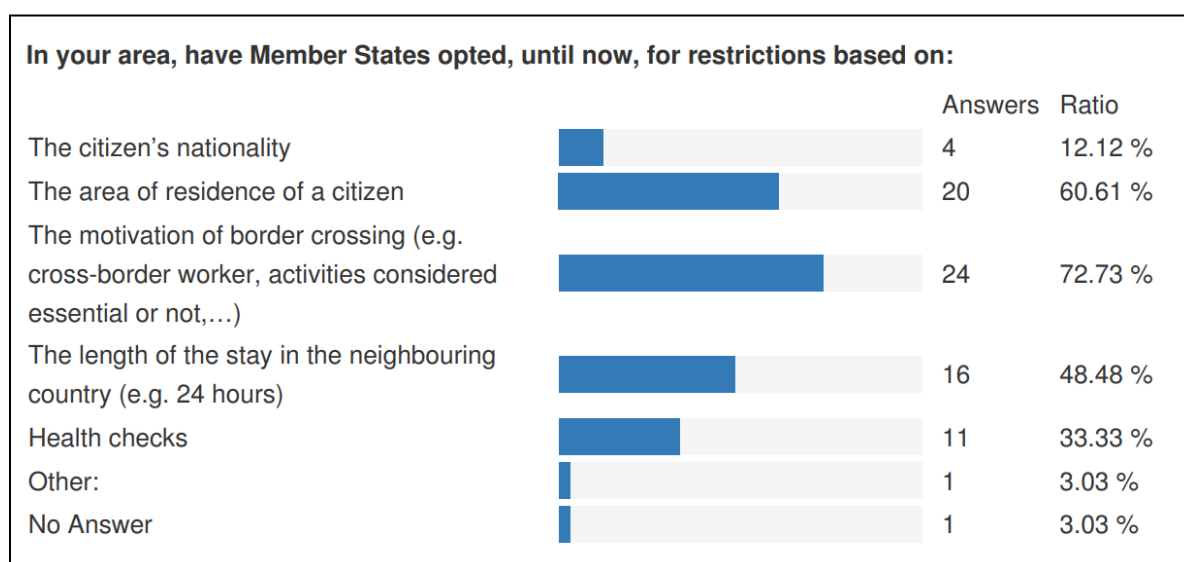
Figure 2.3: Geography of the respondents to the survey or interviewees at local level about the typology of border restrictions



This map shows the type of restrictions decided by the Member States, according to the answers given by the respondents to the online survey at local level.

It can be seen that some criteria appear in a punctual way on a portion of the border while others do not. For example, the criterion "nationality of the citizen" appears only once on the PT-ES border and once on the FR-ES border. It can be noted that the "length of stay in the neighbouring country" criterion is mainly concentrated on the borders of France and Germany. "The motivation of border crossing is a criterion found on the borders of Germany, France but also other countries such as Portugal or Hungary. The "area of residence of a citizen" criterion is present on most borders without any particular geographical preference.

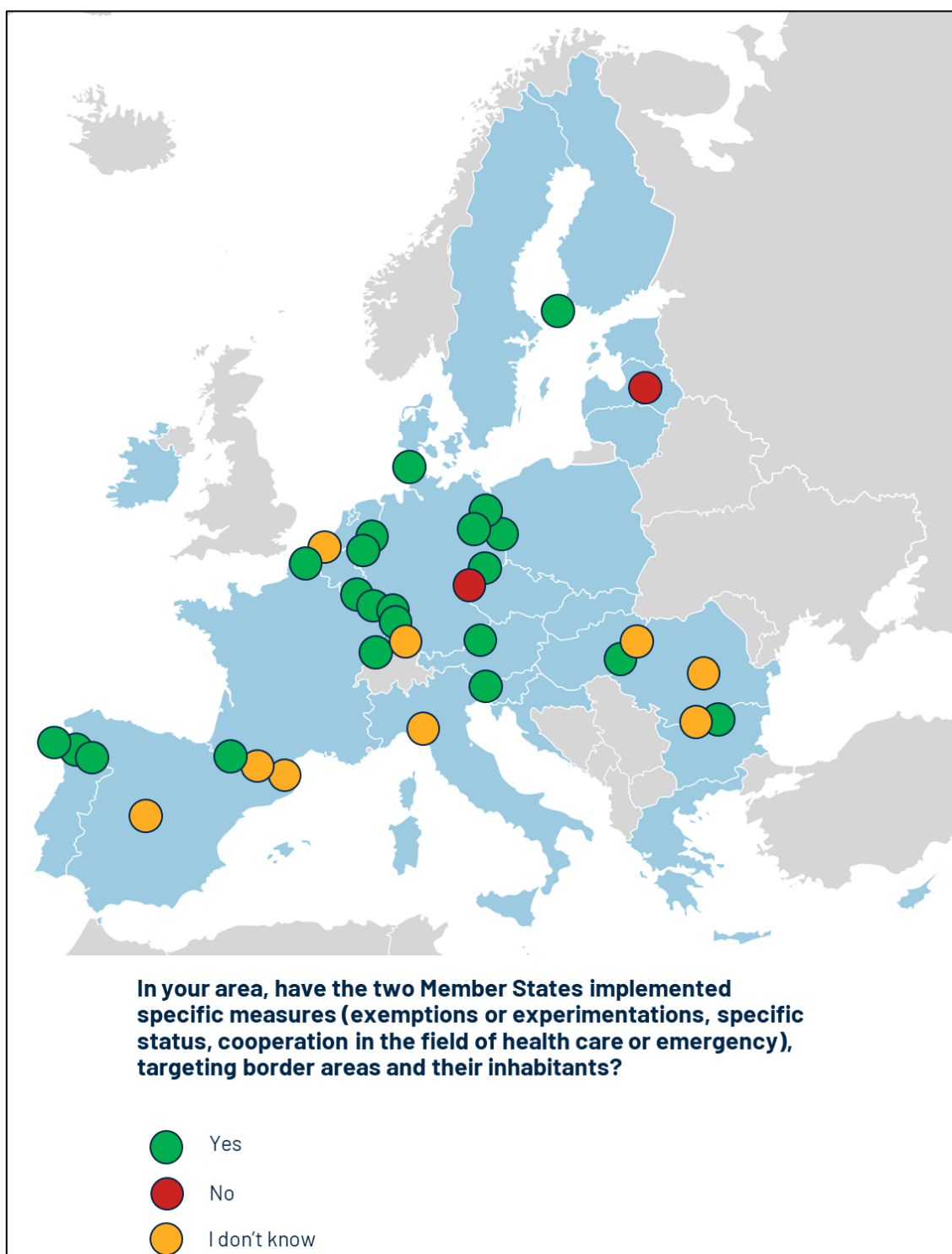
Figure 2.4: Results of the interviews and online survey of local stakeholders about the typology of border restrictions



Taking into account the results in a quantitative way, more than 70% of the responses indicate that the restrictions imposed by Member States are related to the motivation of border crossing (e.g., cross-border worker, activities considered as essential or not...). This result indicates that residents and workers in cross-border territories were the first to be affected by the Covid-related restrictions decided by the states. From a local point of view, states do not seem to take sufficient account of the daily lives of people living in border areas. More than 60% of the responses indicate that the restrictions imposed by the Member States related to the citizen's area of residence. This answer may seem contradictory to the previous one as it shows that restrictions have been adapted to the cross-border context (for example: on the FR-ES border, "inhabitants living in an area of 30 km from the border could make a 1-day trip with no restriction" or on the IT-SI border, "a 60km radius from the border was an exception for citizens living at the border"). And almost half of the responses indicated the length of the stay in the neighbouring country as a criterion. This criterion corresponds to the measures taken to avoid quarantine in the neighbouring country. For example, it was used on the borders of Germany.

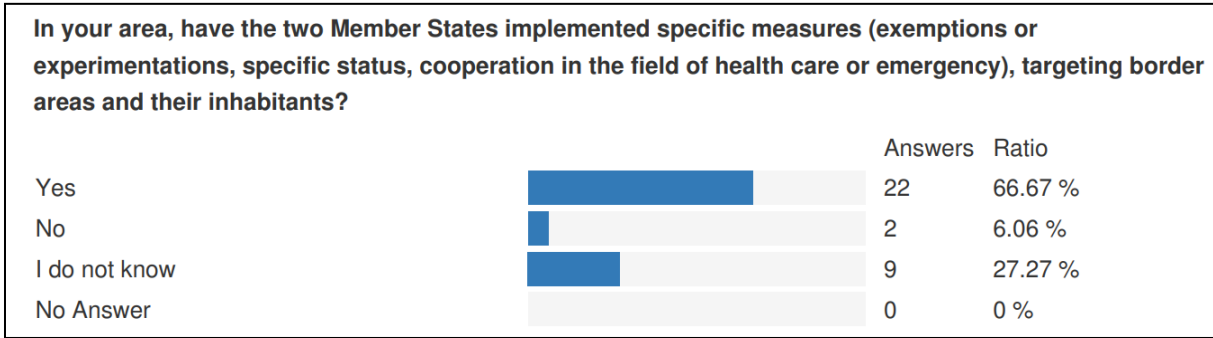
D. Member States' specific measures implemented by the two MS in cross-border areas (exemptions or experimentations, specific status, cooperation in the field of health care or emergency), targeting border areas and their inhabitants

Figure 2.5: Geography of the respondents to the survey or interviewees at local level about specific measures implemented



This map shows whether specific responses have been made by Member States targeting border areas and their inhabitants according to the answers given by the respondents to the online survey at local level. The "yes" answers are on the borders of France, Germany, Portugal, Italy, Hungary and Bulgaria. It should be noted that the "no" answer for the Latvia-Estonia border contradicts the special status for the free movement of the inhabitants of the municipalities of Valka-Valga (EE-LV) set up during the pandemic.

Figure 2.6: Results of the interviews and online survey of local stakeholders about specific measures implemented

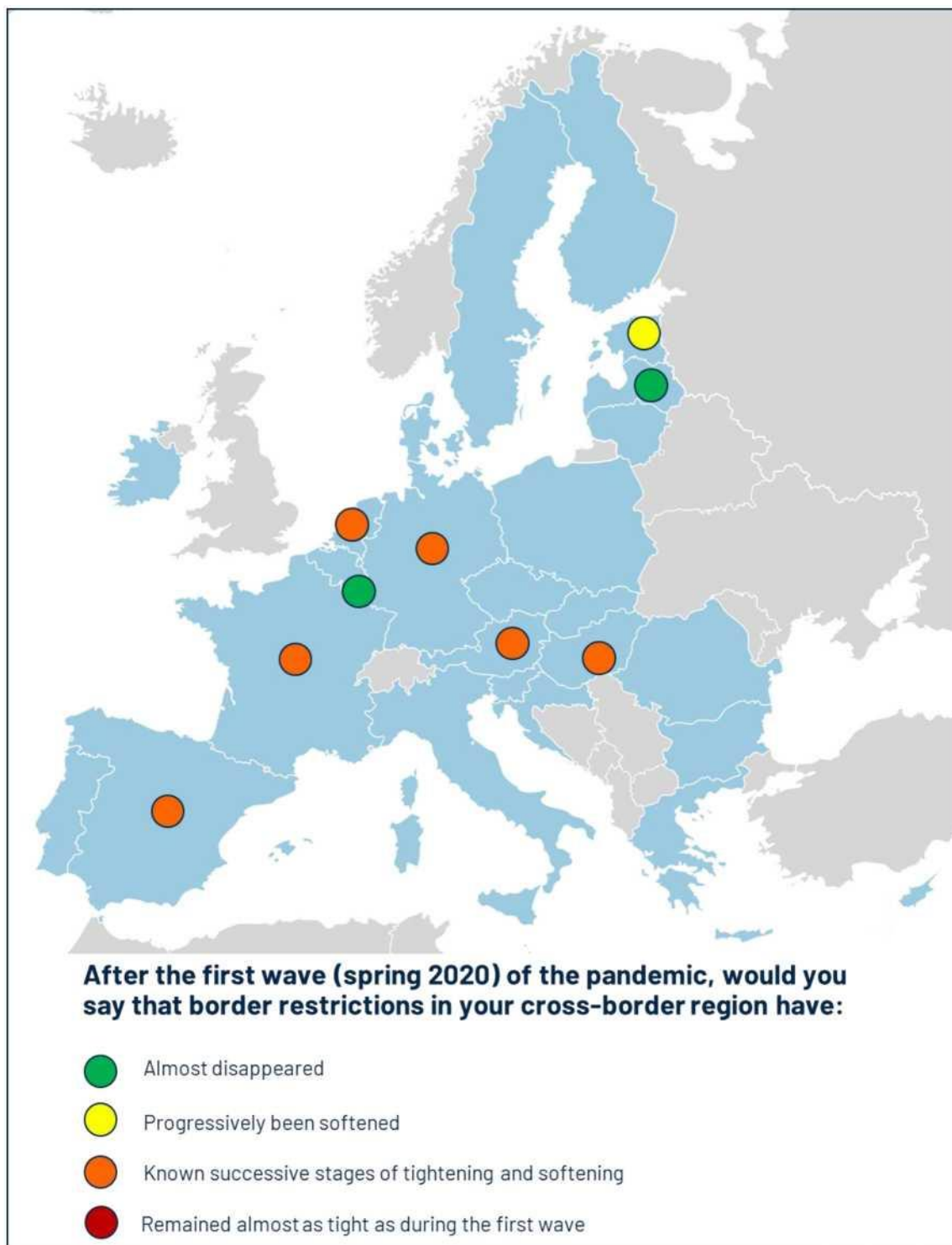


Two thirds of respondents consider that the two Member States implemented specific measures targeting border areas and their inhabitants. Examples include exemptions for cross-border workers (ES-PT), patients from the neighbouring country allowed to go to a hospital on the other side of the border (HU-RO; DE-NL) or inhabitants living in a 30 km or 60 km area from the border (ES-FR; IT-SI).

- E. Analysis at national level
1. Results of survey and interviews (at national level)

a) Evolution of the border restrictions

Figure 2.7: Geography of the respondents to the survey or interviewees at state level about border restrictions

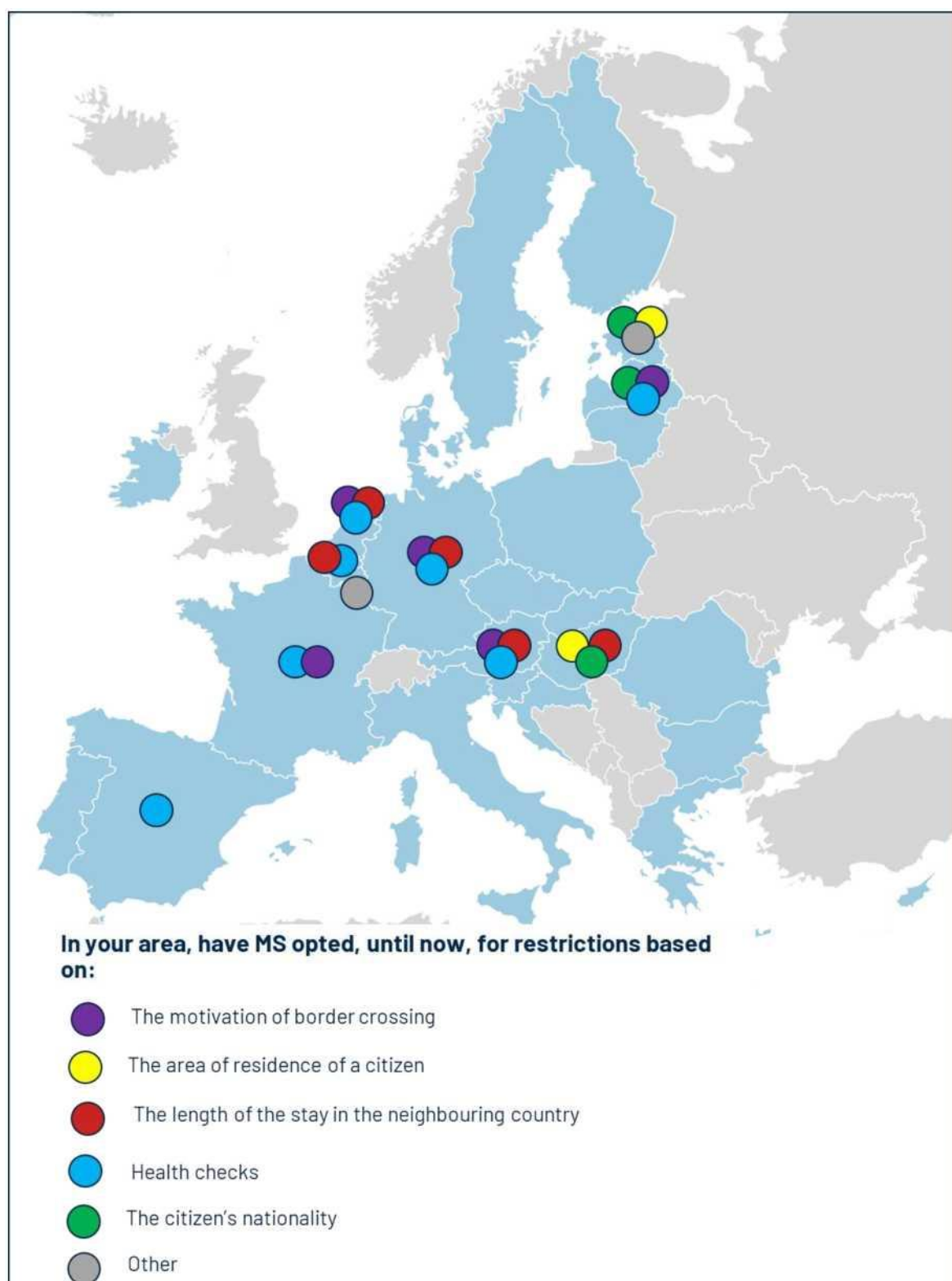


This map shows the perception of the restrictions according to the answers given by the respondents to the online survey at national level, supplemented by the information obtained during the interviews. If we compare this map with the local level responses to the same question (see Figure 2.1 p. 36), we see some contrasts. For example, the representative of the Luxembourg State considers that

the restrictions had practically all disappeared after the first wave, whereas the representative of the Greater Region, a body representing regional actors, considers that there have been several stages of strengthening and easing of restrictions. This difference can be explained by the difference in appreciation between the local and national levels, but also because the Greater Region includes borders that do not necessarily concern Luxembourg (BE-DE or DE-FR). In LU and LV, border controls were either non-existent in one case or had almost completely disappeared in the other after the first wave. In EE, border controls have progressively been softened. For the other countries (FR, BE, NL, DE, AT, HU), the borders have known successive stages of tightening and softening. In general, the state representatives consider that the restrictions applied in the subsequent phases were never as strong as those applied in the first phase.

b) Type of restrictions implemented by Member States

Figure 2.8: Geography of the respondents to the survey or interviewees



This map shows the type of restrictions decided by the Member States according

to the answers given by the respondents to the online survey at national level, supplemented by the information obtained during the interviews. This map also contrasts with the results of the local level responses (see Figure 2.3 p. 38). For example, the criterion of health controls is never mentioned by the bodies at local level at the French borders, whereas it is mentioned by the representatives at national level. The criterion of the citizen's nationality is mentioned by the Hungarian representatives but not by the local structures at the border with Romania. This same criterion is mentioned by the representatives of a cross-border body at the BE-NL border but not by the representatives of the Dutch state.

For national level representatives in FR, NL, DE, AT and LV, the **motivation of border crossing** was one of the reasons for the restrictions applied by the Member States.

For national level representatives of HU and EE, the restriction based on the **area of residence of a citizen** was applied in these Member States.

For national level representatives of NL, DE, AT and HU, the restriction based on the **length of the stay in the neighbouring country** was applied in their countries. In HU, restriction was based on the citizen's nationality, the area of residence of a citizen (30km) and the length of the stay (less than 24 hours) (Source: HU Gov.)

For national level representatives of ES, FR, BE, NL, DE, EE and BE, restrictions based on **health checks** were applied. The restrictions were based on the presentation of a negative test that is less than two days old to stay in Belgium for more than 48 hours. Cross-border work and shopping were not affected (source: BE Federal Gov, 25.12.20). In FR, all entries from other EU countries were subject to a PCR test, except for cross-border workers (January 2021) (Source: FR Gov.). In DE, health checks (negative test) were introduced at the French-German border in winter 2020 and spring 2021, including for cross-border workers.

Restrictions based on the **citizen's nationality** were mentioned by the representatives of HU, LV and EE. In EE, "some exceptions have been established on the basis of citizenship or Schengen zone." In LV, restrictions based on citizens' nationality were implemented, with an exception for Valka-Valga citizens.

In LU, "no restrictions were applied so there was no reason to reduce them".

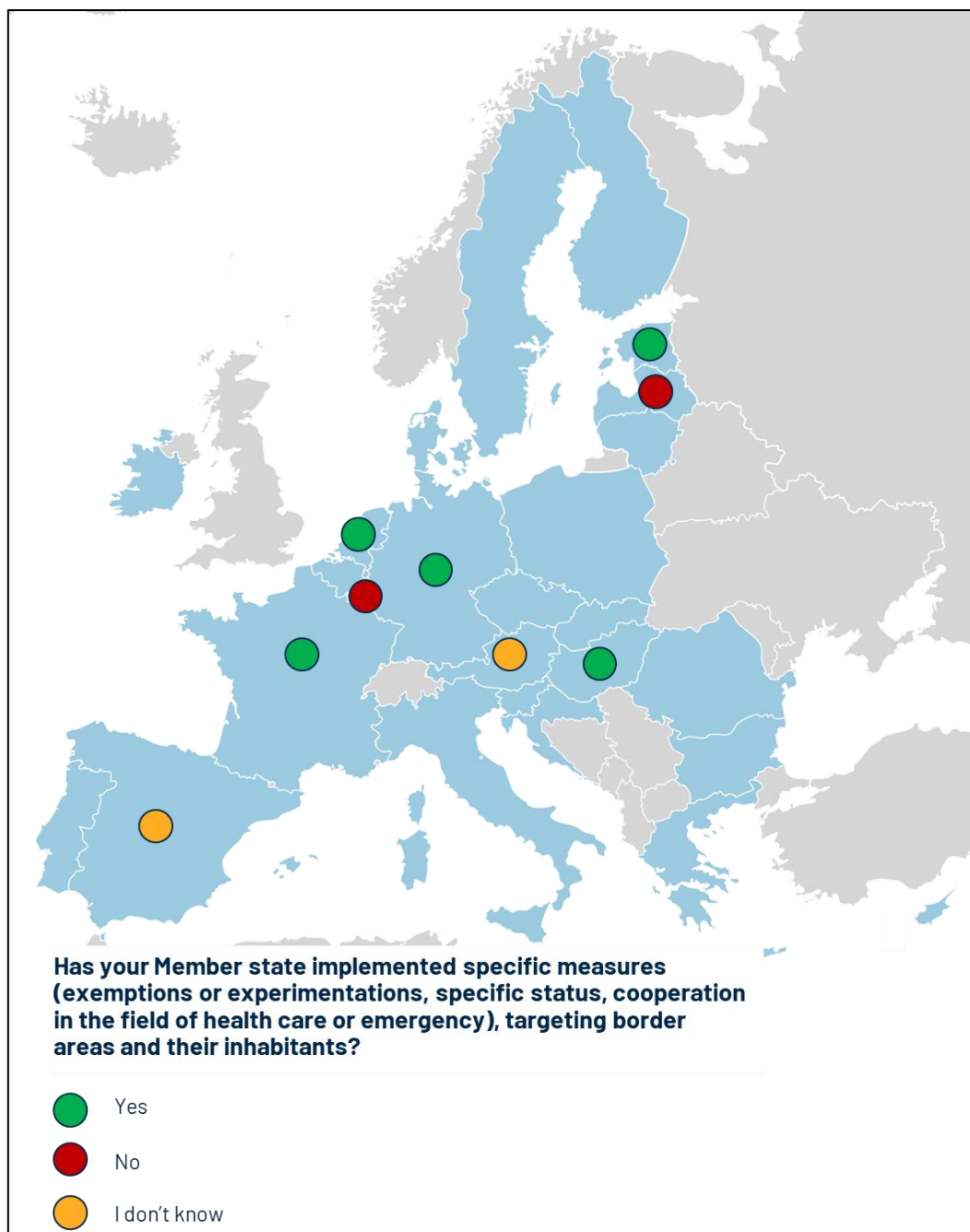
From these results, we can draw a number of conclusions:

- For disease prevention, restrictions would be more effective if they were based on keeping people in their immediate area (i.e., based on area of residence, or travel distance) but that was not the criterion in most cases
- In some states, such as Belgium or France, it was easier to travel to a city

on the other side of the country than to the neighbouring city on the other side of the border because of certain restrictions (such as the length of stay in the neighbouring country or the need to perform a PCR test).

c) Implementation of specific measures by Member States (exemptions or experimentations, specific status, cooperation in the field of health care or emergency), targeting border areas and their inhabitants

Figure 2.9: Geography of the respondents to the survey or interviewees at state level about specific measures implemented



This map shows whether specific responses have been made by Member States targeting border areas and their inhabitants, according to the answers given by the respondents to the online survey at national level and supplemented by the information obtained during the interviews.

For the representatives of FR, DE, NL, HU and EE, the Member States implemented specific measures targeting border areas and their inhabitants. For example, in FR, travel within a "30 km radius from home or the "Bassin de vie transfrontalier" (Cross-border living area) and stays no longer than 24 hours.

For the representatives of LU or LV, no specific measures were applied.

For the representatives of ES and AT, information on the implementation of specific measures is missing.

2. Analysis by Member State (based on available information)

Based on the responses to the online survey and interviews with national authorities, here is a summary of the evolutions which took place between the first COVID-19 wave and the subsequent waves when it comes to COVID-19 induced border measures in certain Member States.

a) *France*

During the first phase of the pandemic, in the spring of 2020, France was suddenly caught off guard by some of its neighbours (BE or DE) who unilaterally applied restrictions at their borders (health controls). Other states such as LU did not apply restrictions. France being a centralized state, a national lockdown was decreed from 17 March 2020 in order to reduce contacts and movements to the strictest minimum. During this first phase, transfers of Covid 19 patients took place between France and some European countries (Germany, Luxembourg or Austria).

As part of the fight against the spread of COVID-19 in terms of border controls, cross-border workers were subject to specific measures on crossing the French border from 18 March 2020 (Prime Minister's instructions n° 6149/SG of 18 March 2020 and n° 6156/SG of April 15, 2020). In addition to border-area residents, exemptions for border crossing restrictions were applied: to citizens of the European Union and British, Icelandic, Liechtenstein, Norwegian, Andorran, Monegasque, Swiss, Holy See and San Marino nationals residing in France or transiting through France; to foreign nationals residing in France; to foreign health professionals involved in the fight against the spread of COVID-19; to goods transporters; and to foreign nationals whose state of health justified immediate medical attention. Following a new instruction from the Prime Minister regarding the health situation, border workers were able to continue benefiting from the exemptions

relaxing border controls until 15 June 2020.

The guidelines on border workers and health, provided by the European Commission, published respectively on 30 March 2020 and 3 April 2020, consolidated measures already in place in France.

During the lockdown from late October to mid-December, the border control exemptions were again applied to cross-border workers at the French borders. For example, they were required to carry proof of business travel in accordance with Decree No. 2020-1310 of 29 October 2020.

On 24 January 2021, the French government decided to impose the requirement of a negative COVID-19 test to be able to enter the territory. This test concerned people arriving from countries outside the European Union but also people traveling from an EU country. Cross-border workers, as well as people traveling for "essential" reasons, were part of the public exempted from a negative test to enter France.

On 31 January 2021, exemptions from the obligation to present PCR tests were introduced. The PCR test was not required for people in the following situations:

- Cross-border workers and business travellers whose commuting frequency was incompatible with the performance of such a test.
- Road transporters in the exercise of their activity.
- Children under the age of 11.
- Trips lasting less than 24 hours within a maximum of 30 km from the place of residence.

The acknowledgement of "bassin de vie transfrontalier" (CB living area) by the French government can be considered as a good practice to be duplicated¹⁵ in Europe.

b) *Germany*

Germany is a federal state. The management of the crisis at the level of the Bund consisted mainly of making recommendations to the Länder. During the first phase of the pandemic, land border controls were re-established on 12 March 2020 between Germany and France, with systematic health checks of travellers on the German side. These controls were extended to all countries bordering Germany.

¹⁵ Principe : « Tenir compte des bassins de vie » in ENA, Quand les mécanismes sont mis à l'épreuve, 2021

From 16 March 2020, 11 of the 16 German Länder (including North Rhine-Westphalia, the most affected with its eighteen million inhabitants) closed all their schools and universities. On the same day, Chancellor Angela Merkel announced measures similar to those taken by Bavaria (which had declared a state of emergency) for the whole country, in agreement with the Länder and the governing coalition. This also included a ban on bus travel, on all religious ceremonies and sports events. However, the Chancellor and her government insisted that this was not a lockdown. On 17 March 2020, the Robert-Koch Institute finally raised the health threat to COVID-19 in Germany to "high risk". On 18 March 2020, Germany tightened its travel restrictions on citizens from Italy, Switzerland, Denmark, Luxembourg and Spain, who could no longer enter Germany by air or sea. On 21 March 2020, a law allowed the federal government to close the borders or, among other things, to requisition doctors or medical students and other health care personnel in the effort against the pandemic. From 10 April 2020, Germany imposed a 14-day quarantine on anyone crossing its borders. This applied to both German citizens and residents of third countries, with the exception of cross-border workers who were subject to health checks.

During the second phase of the pandemic, on 28 February 2021, Germany announced that travellers from the French department of Moselle would face more restrictions due to the high rate of COVID-19 cases in this region. This measure was already in effect at the borders with the Czech Republic and the Austrian Tyrol, where customs checks were systematic. On 2 May 2021, the Moselle department ceased to be classified as a "variant virus circulation zone" for Germany. This decision led to the lifting of random border checks and a reduction of the quarantine period to ten days. Cross-border workers from Moselle staying less than 24 hours on German territory were exempted but had to provide a negative test less than 48 hours old.

In Spring 2021, the Robert Koch Institute issued an opinion to the Federal Government, which then chose to issue a recommendation to the Länder. Foreign countries, or regions thereof, were classified according to their level of incidence. The entry rule was based on the country of origin of the traveller, not on their nationality.

Exemptions could vary from one Land to another: for example, in Brandenburg the 24-hour rule was applied, crossing the border to go home, various reasons (trade, education, employment, etc.).

c) *Luxembourg*

The Grand Duchy of Luxembourg is a small country of 2,586 km² bordering France, Belgium and Germany, with more than 212,000 border workers. According to the Ministry of Planning, "Luxembourg has not applied any restrictions for crossing the border" as confirmed by the ministerial decree of 16 March 2020. Bilateral exchanges took place with neighbouring countries.

Exchanges with Germany were more complicated as decisions on the classification of Luxembourg as a "risk zone" are taken by an independent institute, the Robert Koch Institute. As the Luxembourg Ministry of Foreign Affairs' 2020 Annual Report states: "Following the unilateral closure by Germany of certain border points with Luxembourg (and other neighbouring countries) as part of the fight against the COVID-19 pandemic, respectively the implementation of controls, cross-border flows were severely hampered between March and May 2020. However, "the neighbouring Länder adopted quarantine rules that took into account the cross-border way of life in the Greater Region".

The relationship with France was the simplest. "Luxembourg welcomed French COVID-19 patients in its hospitals and assisted France in the transfer of patients from the Grand Est".

With Belgium, "cross-border flows were subject to controls at the Belgian-Luxembourg border between mid-March and mid-June 2020. A joint committee bringing together representatives of the Ministries of Foreign Affairs, the Interior and the two embassies was set up to exchange information and find pragmatic solutions to the various cases of border crossings.

Exceptions were made at the German border for "small border traffic". It was also possible to travel to Germany for 72 hours. There was good contact between Luxembourg and the Länder of Saarland and Rhineland-Palatinate, although some competences were at federal level. In this case, the Luxembourg Embassy played a facilitating role.

Finally, Luxembourg signed agreements with its three neighbouring countries in the fields of taxation and social security to increase the number of days of teleworking to which frontier workers are entitled. These exemptions have been extended several times and are maintained at least until 30 June 2022.

d) *The Netherlands*

The Netherlands is a unitary state. In the first phase, the Netherlands closed schools, day-care centres, catering facilities, etc. from 16 March 2020. However, there was no lockdown. The country did not close its borders.

According to the Ministry of the Interior and Kingdom Relations, "The Netherlands never fully closed its borders and has put exemptions in place for people doing cross-border work."" But according to the ITEM study, "Although the Dutch government had not imposed any official entry restrictions, it was trying to prevent Germans and Belgians from entering the country by making urgent appeals and issuing negative recommendations to travellers."

It is the neighbouring countries that tightened their controls.

Belgium announced the closure of its borders on 20 March 2020. "Only those with a reason explicitly mentioned on a list of exceptions – such as cross-border work or transport – were allowed into the country, a rather drastic measure for an open border region¹⁶".

"On the **German** side, the same thing happened: on 16 March, as per federal legislation, North Rhine-Westphalia introduced a ban on the entry of persons without a valid reason, which wasn't lifted until 15 June 2020 (German Bundestag, 2020). But in comparison with other internal borders, the Dutch-German border could be considered as "open border" during the Covid- 19 crisis. This border remained open, not only for the transport of goods and services, but also for the movement of people. This is why Dutch residents entering Germany were hardly forced to think about whether their reasons for entry were valid – such as the daily commute to work." "There was no fining at all at the Dutch-German border".

On 15 June 2020, "for the first time in weeks, Dutch and German citizens could cross the Belgian border again without needing a 'valid' reason" according to the ITEM study.

The Netherlands signed rapid bilateral agreements with neighbouring countries on tax and social security exemptions for cross-border commuters forced to work from a home office.

e) *Belgium*

In Belgium, the Government announced a lockdown that would be effective from 18 March 2020. On 20 March 2020, Belgium closed its borders except for freight and exceptional individual cases. Police and customs checks were carried out on both the main and secondary roads. The consequences of this closure sometimes led to unexpected or even bizarre situations in the border localities. "From 22 March 2020: entry and exit vignettes for cross-border commuters in "vital occupations". For others, employer certificates were requested (forms were issued)"¹⁷.

On 30 May 2020, Belgium decided to allow its citizens to travel to neighbouring countries again, including for shopping and visits. However, this decision went against the decisions of certain countries, notably France, which maintained the ban on entry to its territory for people without the appropriate travel document. Belgium reopened its borders on 15 June 2020 (to and from Europe).

On 2 November 2020, a new national lockdown was announced which would last until at least 13 December. During this period, travel abroad was allowed, although

¹⁶ ITEM, Cross-Border Impact Assessment 2020, Dossier 1: The impact of the corona crisis on cross-border regions (TEIN study)

¹⁷ Ibid.

it was strongly discouraged.

f) Hungary

During the first phase of the pandemic, the Hungarian government decided to close its borders on 17 March 2020 to foreign travellers due to the state of emergency measures that applied (closure of schools, universities, leisure facilities; cancellation of events).

According to the CESCO, "Following the closure, serious problems of obstacles to workers' commuting emerged relatively soon after the closure, so the next decision was to allow workers to cross the border at the various border sections¹⁸".

Border crossing restriction regimes vary from one border to another as Hungary borders countries both within and outside the Schengen area. In addition, 1 million Magyar speakers live outside Hungary and are taken into account by the Hungarian government's policy. The doctrine has remained the same: starting from the closure of a border, a week of negotiation allowed Hungarian citizens to cross.

At the border with Austria, controls were re-established on 17 March 2020. From 1 April 2020, "Austrian and Hungarian citizens can continue to commute for work purposes at all open Austrian-Hungarian border crossings. The workers were exempted from the 14-day official quarantine." According to CESCO, "Austria was very strict to protect from the pandemic. They changed their rules based on statistical data on a daily basis. The management of the issue was in the hand of the government."

On the border with Slovakia, controls were re-established by Hungary on 17 March 2020. Two days later, border crossing was allowed for cross-border workers at 9 border posts: "Free to cross the border for employment purposes (on presentation of an employment certificate and address card)". On 31 March 2020, new border crossings reopened for CB workers and trucks. From 5 June 2020 onwards, Hungarian-Slovak border crossings were open without restrictions, Slovak citizens and Hungarian citizens from Slovakia were also allowed to enter Hungary without an official quarantine order. According to CESCO, "the border controls were based on the opinion of the people in Facebook comments, not a statistical basis".

At the border with Slovenia, the Hungarian government re-established controls from 17 March 2020. Hungarian and Slovenian citizens could use some border crossings from 2 April. But the border closed on 16 April before some border crossings reopened from 28 May 2020.

On 28 March 2020, a partial lockdown was imposed, with only travel considered

¹⁸ Interview with Gyula Ocskay, CESCO

essential being allowed. On 16 June 2020, the Hungarian Parliament voted to lift the state of emergency. Due to the evolution of COVID-19 in the bordering countries, new rules for entering Hungary came into force on 15 July 2020. A 14-day quarantine was applied to people from at-risk countries.

During the second phase of the pandemic, from 1 September 2020, Hungary completely banned non-residents from entering its territory. Only Hungarian nationals could enter Hungary provided they complied with a 10-day quarantine, which could be reduced upon presentation of two negative COVID-19 tests performed within two days of each other. "With the arrival of the second wave, Hungary's borders were closed again on 1 September 2020, when the achievements of the first wave (e.g., allowing workers to commute) were automatically introduced". "From 1 September 2020, the Government of Hungary has temporarily reintroduced border control at Slovak border sections and internal air border crossing points (passage within the 30 km band will remain for 24 hours)". The Government of Hungary has temporarily reintroduced border controls at the Slovenian border and internal air border crossing points from 1 September 2020.

From 11 November 2020, new sanitary measures were adopted for an initial period of 30 days, extended until 16 March 2021. The containment was reinforced from 08 March 2021 to 07 April 2021.

During the third phase of the pandemic, on 10 February 2021 "Austria has tightened border crossing, which affects Hungarian workers commuting to Austria". Controls at the Austrian border were definitively lifted on 5 June 2021. At the Slovakian border, controls were lifted on 6 June 2021. "Hungary restored normal border crossing at internal Schengen borders".

On 30 March 2021, "Slovenia has banned entry to Hungary".

"Due to the rapid spread of the coronavirus pandemic, national governments were under extreme pressure to take immediate and spectacular decisions, but this meant that it was not always possible to prepare thoroughly for individual actions. However, a sudden and complete closure of borders proved unsustainable, and a number of **exceptions** had to be introduced"¹⁹:

- Border crossing for economic purposes (Business travel between affiliated companies; Commuter travel (for 24 hours, within a 30-kilometre band; Land ownership; Diplomatic travel; Visegrad residents...).
- Border crossing for socio-cultural purposes (Participation in sporting events; participation in parliamentary elections; travel for participants in education)
- Border crossing for humanitarian purposes (Transit traffic; authorisation by the National Police Commissioner on a case-by-case basis (e.g., for family

¹⁹ CESCI, 2021

reunification)

The 30 km rule was applied on most borders except with Croatia where the number of border residents is very low. With Serbia, the rule was extended to 50 km due to the location of some employers. Every decision was made in the capital because Hungary is very centralised.

g) *Austria*

Austria is a federal country. During the first phase in Austria, a lockdown was announced on 15 March 2020 with a ban on public gatherings of more than five people, and restaurants were ordered to close beginning on 17 March. A one-week lockdown was announced on 17 March 2020 by the Governor of Tyrol. In this country indeed "the Federal Chancellor made some national announcements at the beginning of the pandemic and then left the restrictions to the Länder." However, Länder are in charge of healthcare but the National level has responsibility in times of emergency. The different levels had to adapt because they had no experience in how to deal with the pandemic.

"This containment plan was also accompanied by the closure of most of the country's borders, decided unilaterally and without consultation with European partners"²⁰. The border with **Italy** was the first to close on 17 March. "Entry into Austria from Italy was only possible with a health certificate (not older than 4 days) or when admitting into 2 weeks home quarantine; transit without further stops in Austria is allowed. Exceptions were made for cargo and cross-border workers"²¹.

On 23 May 2020, tourists coming from Germany and Switzerland to Italy were allowed to cross Austrian borders, but with the prohibition of any kind of stop within their national area.

On 3 June 2020, "the Austrian Foreign Minister told Austria had agreed with Germany, Switzerland, Liechtenstein, Slovenia, Hungary, Slovakia and the Czech Republic that their countries' borders will be reciprocally reopened from 4 June. The agreement doesn't yet affect the borders with Italy"²².

According to Federal Ministry of Agriculture, Regions and Tourism: "After the first wave, Austria has known opened and closed periods. A 4th containment has been decreed for autumn 2021. Opening of borders was absolutely necessary in order to allow cross-border workers coming from SK, SLO, HU continue with work

²⁰ <https://www.institutmontaigne.org/blog/les-etats-face-au-coronavirus-lautriche-et-le-retour-la-nouvelle-normalite>

²¹ <https://wiki.unece.org/display/CTRBSBC/Austria>

²² <https://www.thelocal.it/20200603/breaking-france-to-reopen-bars-and-restaurants-as-virus-infection-rates-fall/>

(mainly in the industry)."

According to the Foreign and European Policy Report 2020²³ : "Due to the spread of COVID-19, Austria temporarily introduced internal border controls and epidemiology-based entry restrictions at borders to all neighbouring countries in March and April. These were lifted in June. Such temporary border closures for health reasons were also introduced by Austria's neighbours".

h) Estonia

On the evening of 12 March, the Estonian government declared a state of emergency until 1 May 2020. As a result, all schools and universities were closed and all public gatherings were banned, including sports and cultural events. It announced the closure of the borders to foreigners and non-residents from 17 March.

"On 15 March 2020, it was decided to restrict crossing of the Schengen internal and external border temporarily and reintroduce border controls in order to contain the spread of the coronavirus (effective 17 March 2020). Only citizens of Estonia and holders of an Estonian residency permit or right of residence could enter Estonia, as well as foreign citizens whose family member lives in Estonia. At the border control, travel documents and medical symptoms were checked. The requirement of a two-week quarantine for everyone entering the country was also imposed²⁴".

On 14 April 2020, all border crossing points were opened. Entry was allowed for vehicles of international carriage of goods (including food and medical supplies) as well as for providers of vital services, e.g., suppliers of fuel. Estonia was allowing the transit of foreign nationals on their way to their home countries, provided that they did not have symptoms of the COVID-19 virus. The Government of Estonia did not impose a ban on exiting the country.

Lithuania, Estonia and Latvia reopened their borders to each other from 15 May 2020. "The order to end the state of emergency came into force on 18 May 2020²⁵".

According to the Ministry of Finance, "the restrictions were based on the citizen's nationality and the area of residence. Some exceptions have been established on the basis of citizenship or Schengen zone."

During summer 2020, "No restrictions were imposed on travellers coming from or transiting through countries where the coronavirus infection incidence rate is below

²³ <https://www.bmeia.gv.at/en/the-ministry/foreign-and-european-policy-report/>

²⁴ <https://verfassungsblog.de/covid-19-in-estonia-a-year-in-review/>

²⁵ <https://verfassungsblog.de/covid-19-in-estonia-a-year-in-review/>

16 cases per 100,000 inhabitants over the last 14 days. From 1 September 2020, the restriction on the freedom of movement could be replaced by a COVID-19 test, except in cases where the traveller arrived in Estonia for work or studies from a third country that was not included on the common EU list²⁶".

During the second wave in autumn-winter 2020, no emergency situation was declared. Concerning the borders, more nuanced restrictions were adopted on the basis of the State Borders Act²⁷. On 9 October 2020 the government changed the requirements for self-isolation related to border crossings. An exception for the cross-border city Valga–Valka (Estonia-Latvia) was also established: "As of 12 October, the obligation of self-isolation after crossing the border did not extend to people without symptoms living in the city of Valga or Valka and who moved within the boundaries of their local governments during their daily Estonian–Latvian border crossing. The waiver of the isolation obligation allowed for the maintenance of a normal way of life in a border twin town. The exception applied regardless of the infection rates in both countries²⁸".

i) Nordic Countries (Denmark, Finland, Norway, Sweden)

This section is based mainly on information from Nordregio documents about nordic borders during the COVID-19 crisis.

The Nordic EU countries have had different responses to the pandemic.

Denmark closed its air, land and sea borders on 13 March 2020 until 12 April 2020 to tourists and foreigners "who cannot prove that they have a valid reason to come to Denmark".

Sweden neither required the confinement of its population nor imposed a strict policy of social distancing: Borders and schools for under-16s remained open, as did many businesses, including restaurants and bars. Swedish epidemiologist Anders Tegnell said "closing borders is ridiculous"²⁹.

In Finland, on 16 March 2020, the Finnish government, together with the President of Finland, declared a state of emergency due to COVID-19. Measures included closing schools (excluding pre-school education) and most government-run public facilities, limiting public gatherings and closing the country's borders. "Passenger traffic would be restricted at the eastern border and at the internal borders. The

²⁶ <https://wiki.unece.org/display/CTRBSBC/Estonia>

²⁷ <https://www.riigiteataja.ee/en/eli/ee/512082020006/consolide/current>

²⁸ <https://www.kriis.ee/en/news/requirements-self-isolation-related-border-crossing-will-change-valga-valka-will-be-subject>

²⁹ <https://www.courrierinternational.com/article/entretien-pour-lepidemiologiste-suedois-anders-tegnell-fermer-les-frontieres-est-ridicule>

Border Guard's measures relating to cross-border traffic would be carried out on the basis of the Schengen Borders Code and the Border Guard Act. The Finnish Government has ruled that Finnish citizens should not travel abroad"³⁰. "Border control at internal borders changed in Finland on 15 June so that controls at internal borders will be lifted for certain countries and modes of transport. Internal border control was abolished from 15 June at the land border between Finland and Norway and for regular ferry services between Finland and Norway, Denmark, Estonia, Latvia and Lithuania. Internal border control continued for traffic between Finland and Sweden where the epidemiological situation was not under control.

In June 2020, "While Sweden imposed no restrictions on Finns entering the country, the Finnish border guards were instructed to judge for themselves whether people had valid reasons for crossing the border. Many claim that this led to personal bias coming into play, with different guards judging the situation differently, and people waiting for a change of guard before making a fresh attempt to cross"³¹.

During the first months of the pandemic, few efforts were initiated at the national level to meet border community needs across Denmark, Finland, Norway and Sweden.

During the second phase of the pandemic, "concessions were made to alleviate the situation. The high degree of co-dependence in the Torne Valley region was a key reason for the Finnish authorities to apply exceptions, enabling people in border communities to cross more easily to the Swedish side. No such measures were implemented on the border between Norway and Sweden, except for allowing frontier workers in key sectors to pass through.

Nevertheless, 'border community' exceptions were yet again highly criticised for creating borders within countries that do not necessarily reflect commuting patterns nor define the identity of its residents. By August, the Finnish government tried to offer a more sensible approach to handling the border regions, granting special rules to border residents in order to avoid quarantine when entering the country. Adding to this confusion, within the same month (August) the Finnish government announced new rules demanding quarantine for people arriving from abroad"³².

During the winter of 2021, "People living in Sweden and Estonia could come to work in Finland without a self-isolation period or testing. Similarly, day-to-day travel across Finland's land borders with Sweden and Norway was permitted for

³⁰ <https://wiki.unece.org/display/CTRBSBC/Finland>

³¹ Nordregio – Closed borders and divided communities: Status report and lessons from Covid-19 in cross-border areas (Report 2021:6), Alberto Giacometti / Mari Wøien Meijer

³² Nordregio – Closed borders and divided communities: Status report and lessons from Covid-19 in cross-border areas (Report 2021:6), Alberto Giacometti / Mari Wøien Meijer

residents of border communities without a self-isolation period or testing³³".

F. State by State: What response at national or multilateral level to the closure of borders?

In **France**, a centralized state, the borders were not officially closed but random checks were carried out to verify exempting travel certificates. Indeed, France had notified the European Commission of the reintroduction of border controls since 2015 because of the terrorist threat. During the Covid crisis, France has coordinated with its neighbours, notably to send COVID-19 patients to hospitals in neighbouring countries and to facilitate the development of teleworking for border workers. The monitoring of the border closure was mainly carried out by the Ministry of Foreign Affairs. At the border with Germany, the cross-border cooperation committee (CCT) met in June 2020 in the presence of the Secretaries-General for Franco-German cooperation and representatives of the French and German Ministries of the Interior in order to coordinate with a view to the lifting of border controls from 15 June 2020. During the following phases of the pandemic, the French Prime Minister announced on the 31 January 2021, that road hauliers, border workers and "residents of border areas within a 30 km radius of their home" were exempt from the obligation to present a negative test.

In **Germany**, under pressure from the Länder bordering France and Austria, the federal government gave in and announced the closure of its land borders with most of its European neighbours on 15 March 2020. Indeed, the reintroduction of border controls, in particular with Austria, had been notified by Germany as early as 2015 due to the migration crisis. In March 2020, as a federal country, the management of the crisis at the level of the Bund consisted mainly of making recommendations to the Länder as an agreement was signed between the Federal State and the Länder on measures to combat COVID-19 on 22 March 2020. These recommendations were based on the advice of the Robert Koch Institute. While disease prevention is primarily a matter for the Länder, national border control is a matter for the federal government. The exemption rules for crossing the border have varied from one Land to another (for example: 24-hour rule for Brandenburg), or from one border to another (systematic controls with France but not with the Netherlands).

In **Luxembourg**, as a small country that depends heavily on its border neighbours for its functioning, the decision to close the borders was never taken. At the beginning of the pandemic, Luxembourg welcomed French patients and signed an agreement with its three neighbours to allow cross-border commuters living in France, Belgium and Germany to telework. In 2021, in order to avoid restrictive measures in the context of a pandemic negatively affecting cross-border flows, Luxembourg's Minister for Foreign Affairs was in regular contact, in particular with

³³ <https://wiki.unece.org/display/CTRBSBC/Finland>

his German counterpart and with the representatives of the Saarland and Rhineland-Palatinate Länder. The measures taken by the German side thus took account of the cross-border way of life in the Greater Region (exceptions were made for crossing the German border: "small border traffic" or 24-hour rule). With Belgium, a joint committee bringing together representatives of the Ministries of Foreign Affairs, the Interior and the two embassies was set up to exchange information and find pragmatic solutions to the various cases of border crossings.

In **the Netherlands**, the borders were never fully closed and exemptions were in place for cross-border work. While the border with Belgium saw a reintroduction of controls, the border with Germany remained an "open border" compared to other German borders: the governments of the Netherlands and Land of North Rhine-Westphalia (Germany) maintained joint communication stressing open borders. The Netherlands signed rapid bilateral agreements with neighbouring countries on tax and social security exemptions for cross-border commuters forced to work from a home office.

In **Belgium**, the Federal Government decided to close the borders to all non-essential travail on 20 March 2020, without consultation with its neighbouring countries. Then, faced with the obstacles created for border populations, Belgium introduced vignettes for the vehicles of cross-border workers employed in "vital sectors". At the beginning of June, the federal government decided to reopen the border with France unilaterally, whereas France had decided to wait until 15 June, a date agreed at EU level: Belgian people wishing to travel to France were then turned back by the French authorities. In the subsequent phases of the pandemic, restrictions took the form of recommendations not to travel to the neighbouring country. At a virtual Benelux summit in 2020, Belgium agreed with Luxembourg and the Netherlands on a coordinated approach to the coronavirus crisis, including the closure and reopening of borders.

Moreover, on a multilateral level, Benelux set up several communication platforms to optimally manage the exchange of information between Belgium, the Netherlands and Luxembourg. One of these platforms concerns crisis management and brings together the Directors-General of the Benelux crisis centres. At the height of the COVID-19 crisis, this consultation took place every week in order to ensure an almost permanent exchange of information between the crisis centres. In 2022, meetings were expected to continue (once a month)³⁴.

In **Austria**, the Land of Tyrol was the first to announce a lockdown due to its border with Italy. As a federal country, the Federal government had to co-manage the Covid crisis with the Länder, which have the competence for health matters. Under pressure from Tyrol, the federal government decided to close the border with Italy first and then with all other border countries. However, exceptions were soon made to allow border workers to cross the border. Indeed, border controls

³⁴ Benelux, Aperçu des activités liées au Covid

with Slovenia and Hungary had already been in place since 2015 due to the migration crisis. Land border controls with Germany, Switzerland, Slovakia, Italy, Liechtenstein, and the Czech Republic were in place until 15 June 2020. At the end of 2020, Austrian authorities estimated that the COVID-19 pandemic situation in Germany, Switzerland, Italy, and Liechtenstein had improved, and therefore removed frontier checks with all these countries. However, Austria's government prolonged its border controls several times with Slovakia, and the Czech Republic due to COVID-19 but also with Hungary or Slovenia due to the terrorist threat, and the situation at external borders.

In **Hungary**, border controls were introduced in 2015, notably with Slovenia, due to the migration crisis. But until March 2020 and the closure of the border with Austria, Slovenia and Slovakia, Hungary had not notified the European Commission of any reintroduction of border controls. After its decision to close all borders on 17 March 2020, the Hungarian government had to backtrack in the face of the difficulties experienced by cross-border workers in getting to Hungary. The regime of restrictions may have varied from border to border but the doctrine was the same for the government: close the border, negotiate for a week, ease restrictions to allow Hungarian citizens to cross the border. In September 2020, Hungary re-established controls on all its borders. These decisions were taken in a very centralized manner. In the following months, neighbouring countries decided to close their borders with Hungary (Austria in February 2021 and Slovenia in March 2021). However, unlike at the beginning of the pandemic, exceptions were automatically implemented, notably for cross-border workers (24 hour stay; stay within a 30 km band on either side of the border...).

At the level of the Visegrad Group (Poland, Czech Republic, Slovakia and Hungary), "a virtual 'V4 Centre for COVID-19' was established in October 2020 as a platform for regular videoconferences of experts from all ministries from the Visegrad Group countries involved in fighting against the pandemic. Topics discussed included the restrictions planned for introduction in the individual V4 countries, restrictions at national borders, the situation in the health services and issues related to the COVID-19 vaccination programme³⁵".

In **Estonia**, the closure of the borders was announced on 17 March 2020. All land crossings were reopened on 14 April 2020. The Baltic States reopened their common borders on 15 May 2020. In the second wave, no state of emergency was declared and more nuanced restrictions on border crossings were adopted on the basis of the State Borders Act. An exception was made for the border towns of Valka-Valga (Estonia-Latvia) so that their inhabitants would not be subject to isolation if they did not have symptoms.

Furthermore, according to the 2020 Annual Report of the Minister of Foreign Affairs of Latvia: "The close cooperation between Latvia, Lithuania and Estonia in the

³⁵ Visegrad Group, Report on the Polish Presidency of the Visegrad Group, July 2020-June 2021

spring and summer of 2020 set an example for others to follow in Europe. With the COVID-19 pandemic crisis unfolding, the Baltic Council of Ministers and the Baltic Assembly focused in their work on a sustainable approach at the Baltic level, including on the subjects of safety measures and border crossing, while being prepared to return to stronger measures to contain the spread of the virus if needed. The Baltic States cooperation was reflected in regular information exchange and mutual coordination on the enforcement of restrictions.”

In the **Nordic Countries**, border closure strategies have been varied, in particular because of Sweden's non-restrictive policy towards Covid. Exemption measures have been taken by Sweden and Finland to allow border populations to cross the border. This was not the case between Norway and Sweden, except for cross-border workers employed in key sectors. However, the exemption measures applied to ‘border communities’ have been criticised for creating new borders. “Supranational governance structures appear not to play any major role: Nordic cooperation seems not to be capable of deliver an alternative. In this situation, cross-border collaboration became, if not outright impossible, then largely ineffective, at least at the beginning of the crisis³⁶”.

G. Conclusion

The analysis of the evolutions which took place between the first COVID-19 wave and the subsequent waves in terms of induced border measures shows that border restrictions have not been applied consistently across borders.

1. The first finding that becomes apparent from the results is that, for most respondents at local and national level, the border restrictions in the first wave were much more drastic than in subsequent waves. Indeed, when the first wave hit, some Member States reacted with a sense of shock. Between March and June 2020, 14 Member States introduced controls at the internal borders of the Schengen area in connection with the COVID-19 pandemic. Between February and April 2021, only 8 countries maintained border controls in connection with the pandemic.
2. The second finding is that no state has achieved a holistic policy of border restrictions (no inter-ministerial border management observatory, taking into account effects on border regions). Centralised states have reacted unilaterally by applying the same restrictions across their borders; the local level has not been consulted.
3. The third finding is that during the first wave in some Member States (i.e. Germany or Austria), the federal level initially acted in response to (or under pressure from) measures taken by some of their regions (Länder) in order

³⁶ Nordregio – Closed borders and divided communities: Status report and lessons from Covid-19 in cross-border areas (Report 2021:6), Alberto Giacometti / Mari Wøien Meijer

to enforce the ban on non-essential travel (i.e.: introduction of border controls or health checks). This can be seen as a particular situation where the local level has prompted the national level to take more severe measures.

4. The fourth finding is that some states reintroduced border controls unilaterally in the first wave and pursued a policy of limiting border crossings without consultation with neighbouring states (Belgium, Hungary). However, the Belgian government has allowed cross-border workers in vital sectors and professions to use vehicle vignettes to cross the border between Belgium and the Netherlands more quickly in the event of a check.
5. The fifth finding is that smaller states (Luxembourg), highly dependent on border crossings, have hardly implemented any restrictive measures at their borders. The Luxembourg government has issued a certificate to facilitate the crossing of the border by Luxembourg workers residing in the neighbouring countries. Upon presentation of this certificate, these workers were exempted from the restrictions on border crossings.
6. The sixth finding is that some states (i.e., Baltic States) cooperating at the regional level have coordinated to ease border restrictions or to reopen their borders to each other at the same time; others (Benelux States, Visegrad States) have not.
7. The seventh finding is that the flexibility measures introduced by certain states (such as the "cross-border living area" in France or the "border communities" in the Nordic countries) have been efficient but may sometimes have been perceived as creating new borders.

In sum, Member States' border management in reaction to the public health crisis has severely hurt the day-to-day life of border regions. Lessons have to be drawn from failures and innovations, and a new policy approach has to be developed. Chapter 5, below, will present the study's recommendations in this regard.

III. CHAPTER 3:

IMPACT ON CITIZENS' CROSS-BORDER INTERACTIONS AND THE EMERGENCE OF NEW OBSTACLES

A. Introduction

To evaluate the impact of the border-related measures on citizens' cross-border interactions, two successive analyses were conducted, with different materials. The first one is based on an anonymized extract of the questions submitted to the Your Europe Advice service, where citizens and businesses can ask EU experts about their individual EU rights and get legal advice. The second analysis is based on interviews with representatives of local "border information points", which are local entities supporting citizens living near borders in their cross-border administrative procedures. The two analyses are complimentary, as they offer two different points of view on cross-border mobility and difficulties citizens were faced with during the pandemic crisis. Below, we will detail the two perspectives, and identify the main similarities and differences, in order to assess the general impacts of the border-related measures on citizens' cross-border interactions.

B. I. Analysis based on the exploitation of citizens' questions submitted on "Your Europe Advice"

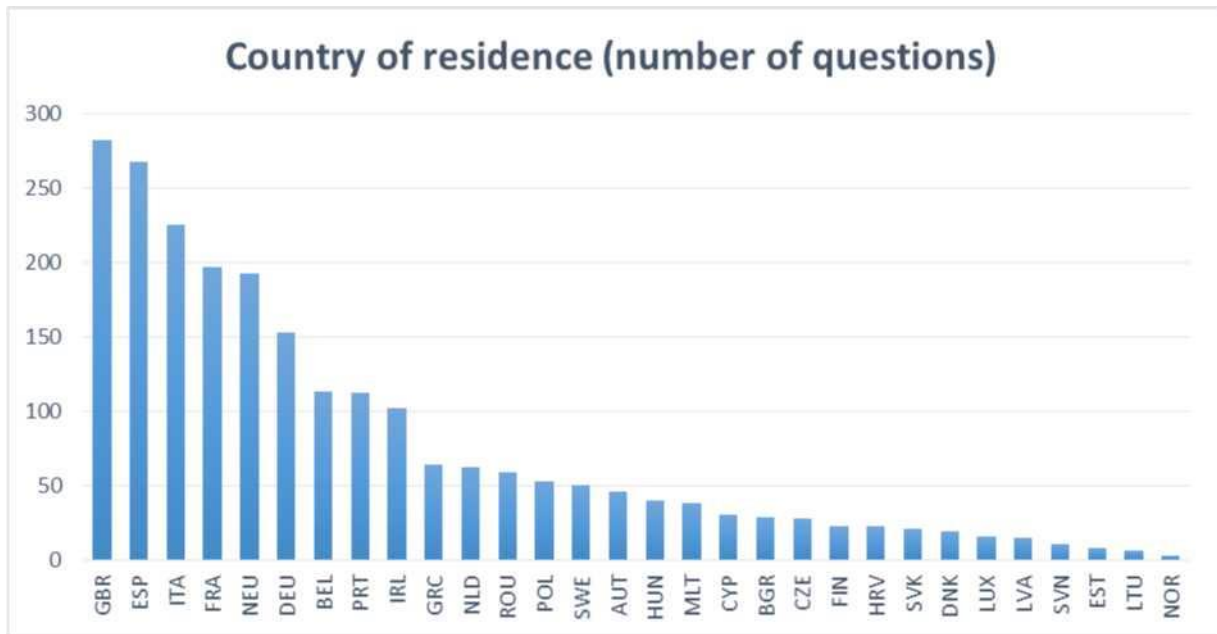
1. Quantitative analysis based on Your Europe Advice extract entries

To conduct this analysis, some anonymous extracts of questions to and answers from Your Europe Advice between 12 March 2020 and 30 April 2021 have been consulted. The extract file provides 2289 question entries (which results from a filtering of the database). **All of these entries (questions and answers) were cleared of personal information (names of people and organisations were not readable). In any case, the authors of the study did not have access to the database or to any form of private data.** For each entry, criteria about nationality, residence, economic category, date of record, topic and subtopic of the question are specified.

The distribution of countries of residence and nationalities vary greatly throughout the entries. For instance, among Italian nationals, only 47% live in Italy. Thirteen percent live in Spain, 8% in the United Kingdom, 7% in France, and 6% in Ireland.

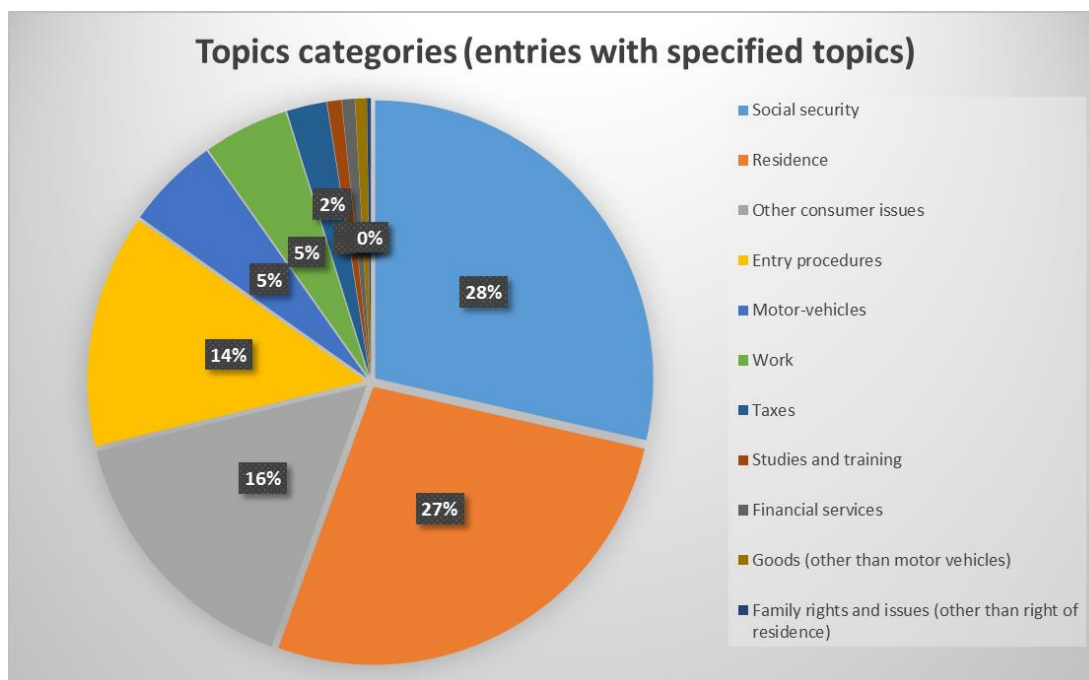
In order to give a “territorial analysis” of the issues European citizens are faced with, the residence criterion may be the most relevant. Twelve percent of all questions asked are submitted by British residents, 12% by Spanish, 10% by Italian, 9% by French, 8% undefined, 7% German, 5% Belgian, 5% Portuguese, and 4% Irish.

Figure 3.1: Distribution of questions submitted by country of residence on Your Europe Advice



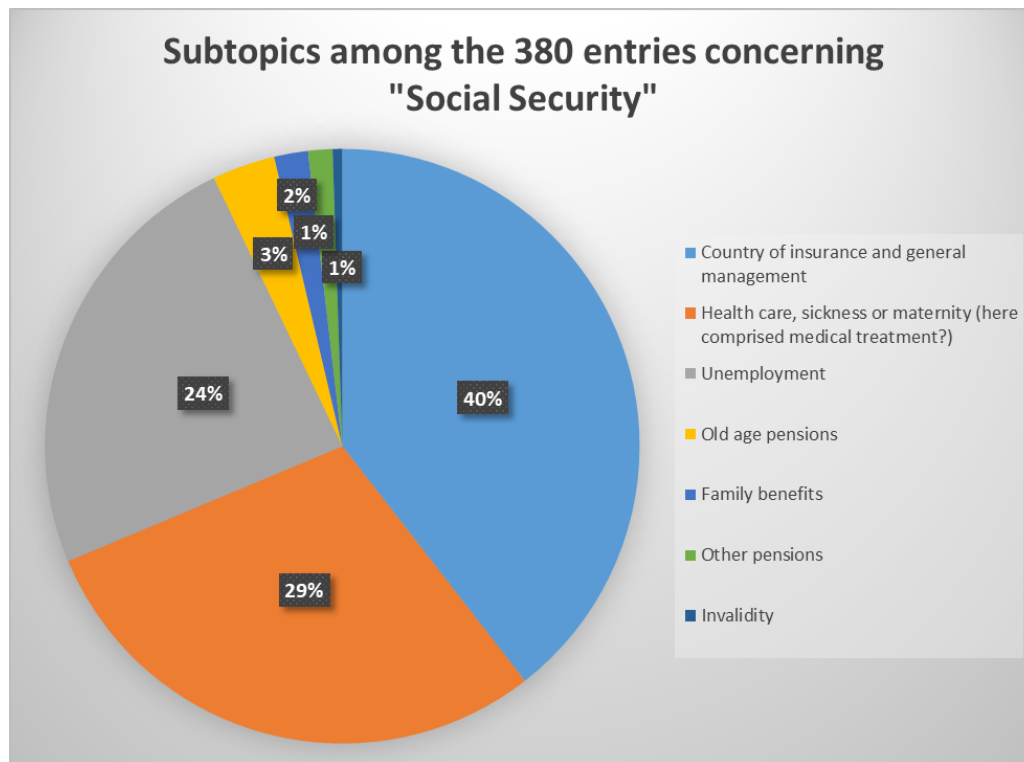
One of the most interesting categories to assess the kind of questions submitted during the pandemic is that of the question topic itself. There are 11 topic categories used to classify the questions submitted on Your Europe Advice, comprising 45 subtopic entries. The distribution of the different topic categories among the questions with specified topics is the following (the 959 entries with unspecified topic categories were excluded from the following graphs).

Figure 3.2: Distribution of questions submitted by topic category on Your Europe Advice



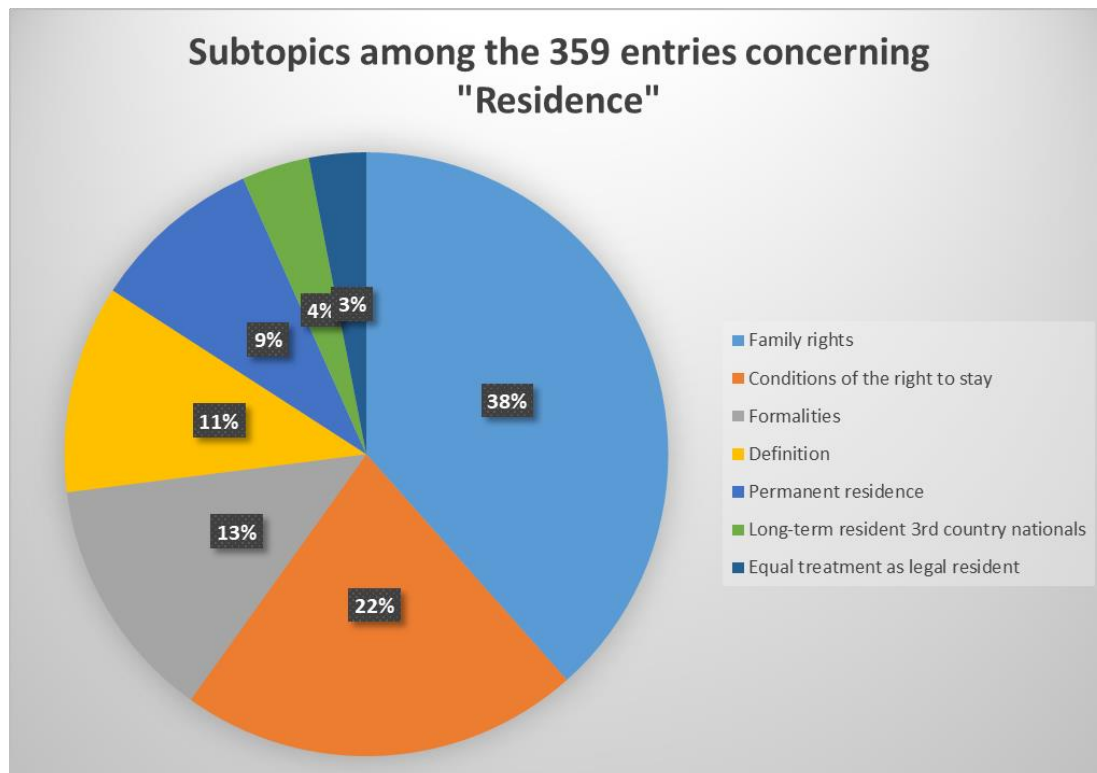
Despite the high proportion of questions with unspecified topics (42% of all entries, concerning every kind of topic), the most common topic identified among the 1330 questions with specified topics submitted on Your Europe Advice is social security (380 entries). This topic category includes seven subtopics: Country of insurance and general management (150 entries); Health care, sickness or maternity (111); Unemployment (92); Old age pensions (13); Family benefits (7); other pensions (5) and Invalidity (2).

Figure 3.3: Distribution of questions submitted in the sub-category "Social Security" on Your Europe Advice



The second most common topic of questions submitted is that of residence (359 entries). This topic also includes 7 subtopics: Family rights (138); Conditions of the right to stay (77); Formalities (47); Definition (40); Permanent residence (33); Long term resident 3rd country nationals (13) and Equal treatment as legal resident (11).

Figure 3.4: Distribution of questions submitted in the sub-category "Residence" on Your Europe Advice

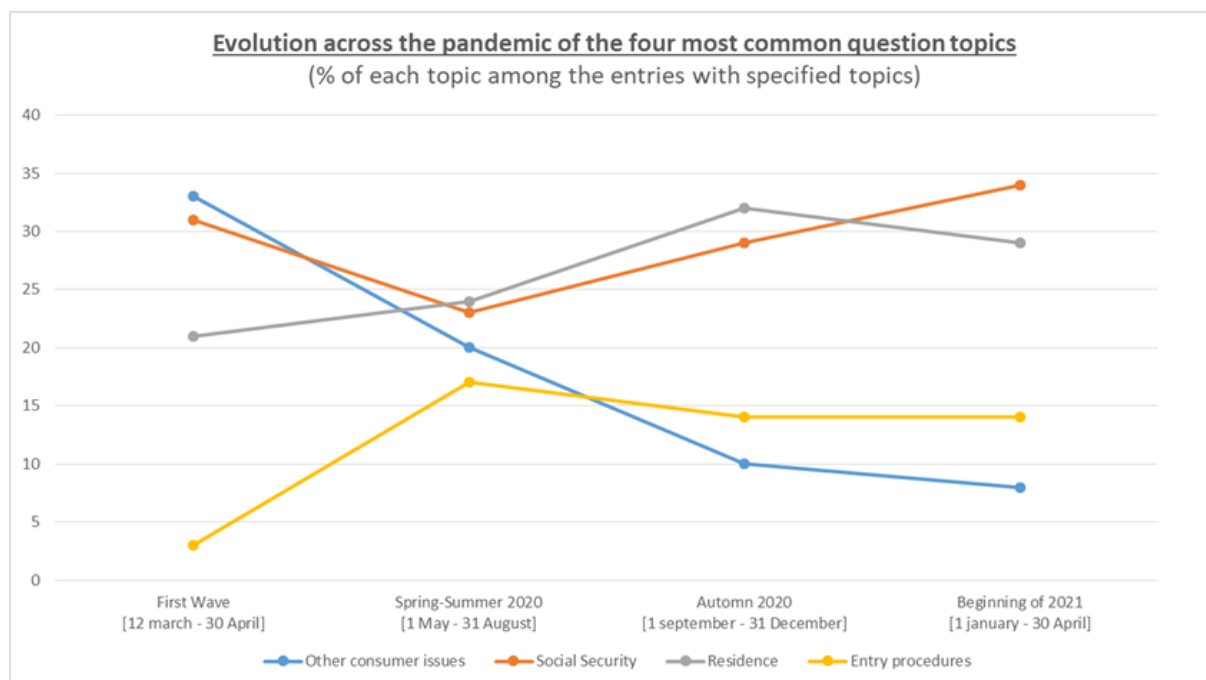


None of these subtopics directly target cross-border territories. However, it reveals the importance of social security and residence issues in the period of the pandemic for European citizens. It would be interesting to compare these proportions with other periods of Your Europe Advice activities.

We should also consider the importance of two other topic categories: Other consumer issues (9% of total / 208 entries) and Entry procedures (8% / 181 entries). Other consumer issues are divided into 7 subtopic categories: Package travel and passenger rights (104); Contractual issues (60); E-commerce (34); Small Claims procedure (7); Canvassing and distance selling (1); Misleading advertising and timeshares (1) and price discrimination (1). Entry procedures includes 3 subtopics: Border controls (91); Travel Documents (89) and Third country nationals (1). We should note here the relative importance of the "border controls" subtopic, which is the sixth most common subtopic among the 45 subtopics of questions asked on Your Europe Advice.

Moreover, thanks to the mention of the "date of record" for each question entry, we can consider the evolution of the main topic categories across the whole period consulted (12 March 2020 – 30 April 2021). This leads to the following result.

Figure 3.5: Evolution across the pandemic of the four most common question topics on Your Europe Advice



There are subsequent evolutions between distributions of each topic category during the first wave, and during autumn 2020 and during the beginning of 2021. For instance, at the beginning of the pandemic “Other consumer issues” represent the most significant proportion of questions (33%), while it concerns only 8% of those asked at the beginning of 2021.

In contrast, entry procedures represent only 3% of questions submitted during the first wave where European countries saw lockdown measures, and around 15% in the following periods of 2020. Questions regarding social security and residence remain at high levels through the whole period, with a particularly high proportion of questions regarding unemployment during the first wave (15% of entries with specified topics for this period), and a specific trend for “residence questions” among British residents during the Brexit implementation period (especially at the end of 2020).

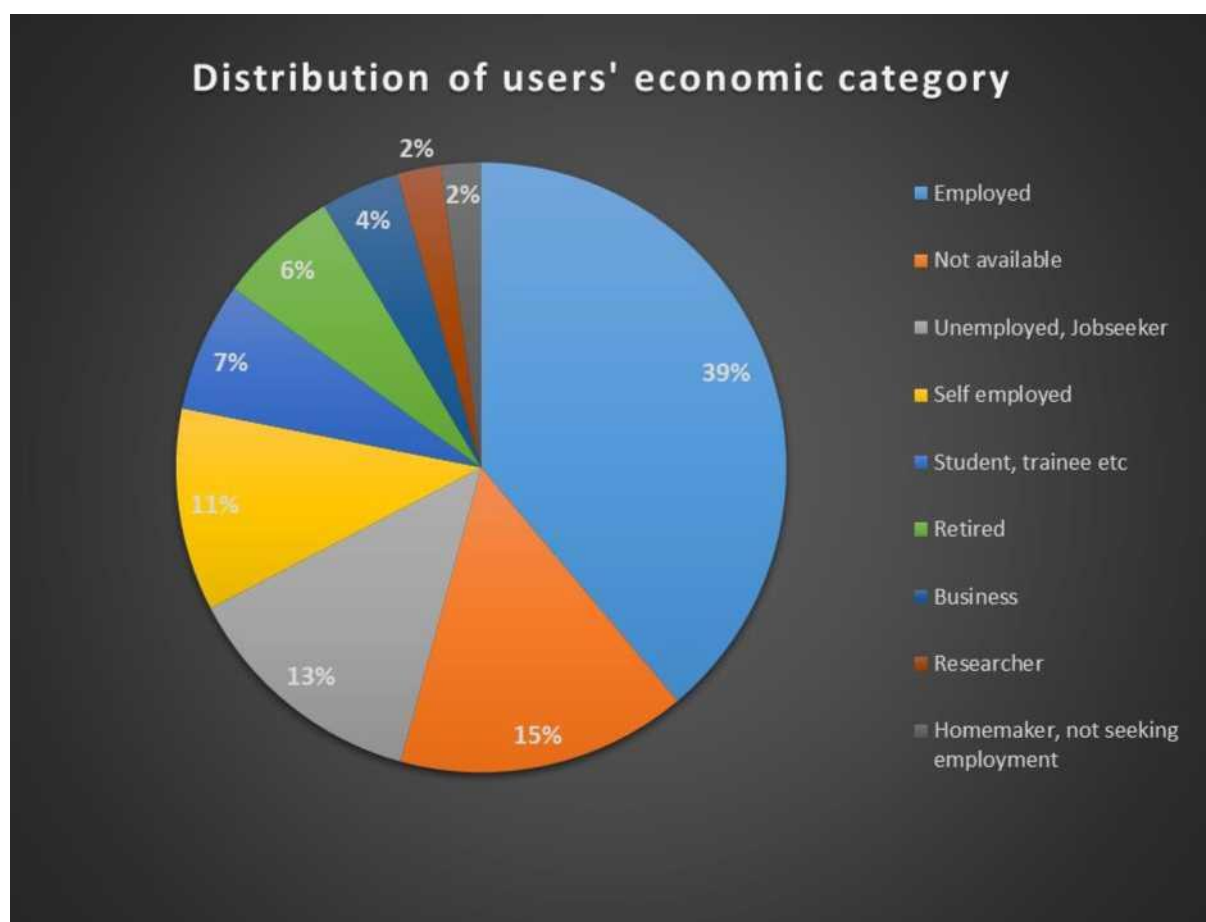
Among the 45 subtopic categories, “border controls” (91 entries across the whole period), and “cross-border work” (18 entries), or “cross-border self-employed provision of services” (6 entries) can be specifically analysed as potentially related to cross-border situations. Their detailed analysis will be the aim of the next part (the “qualitative” part).

From a quantitative point of view, another remark is that there were only two questions regarding “border controls” during the first wave (less than 1% of the 164 questions with specified topics between 12 March 2020 and 30 April 2020), while this category represents 7 to 8% of questions with specified topics during

the next periods of 2020 and during the beginning of 2021. The number of questions directly related to “cross-border work” or “cross-border self-employed provision of services” is not significant.

The last precisions about questioners’ profiles concern their economic status. There are 8 possibilities chosen by questioners in order to define their economic situation: employed, unemployed, self-employed, student, retired, business, researcher or homemaker-not seeking employment. The distribution is the following.

Figure 3.6: Distribution of users’ economic category on Your Europe Advice



Moreover, one can – logically – observe that questions regarding cross-border work or mobility are particularly asked by people belonging to the working population. For instance, among those who are asking questions about border controls (91 entries), 44% are employed, 13% self-employed, 8% students, and only 7% unemployed (5 points less than the average) or 3% retired (3 points less). Among the 24 asking questions about cross-border work or self-provision of services, 15 are employed and 6 self-employed

2. Qualitative analysis of questions and answer related to “cross-border situations”

a) Method

Among the 10 topic categories and 45 subtopic categories that could be chosen for each question, we pay particular attention in this section to the questions related to:

- Cross-border work and cross-border self-provision of services (24 entries)
- Border controls
- Discrimination and non-equal treatments between European citizens
- Unemployment
- And at some point, to various entries about social security issues, like “country of insurance”

All the questions and answers were read for “cross-border work” and “cross-border self-provision of services”, whereas for the other topics the focus was on the entries related to “cross-border situations”. At some points, we searched for key words, such as “cross-border” or “frontier”.

We also pay attention to the 959 entries that were not related to any topics (unspecified entries), reading all those containing – in the question or in the answer – the term “cross-border”.

b) Results

Preliminary remarks

One of the main findings emerging from reading the questions is that there are many different cross-border mobility situations. A proportion of these situations does not correspond with those familiar to cross-border policy experts, such as commuting between two countries that do not share a common border (for instance between Spain and Germany, between the United Kingdom and the Netherlands, or between Portugal and France). Many questions are submitted by citizens coming home once a week.

“I am a cross-border commuter (or simply a cross-border worker), I work in Germany and live in Spain with my family, I go and come back every weekend.” Spanish Resident, April 2020

Other examples reflect “intermediate situations”, such as travelling for various

professional and personal reasons across different nearby borders:

"I work at a university in the Netherlands, currently live just over the BE-NL border in Belgium and usually spend a lot of time with my family in Germany." Belgian resident, October 2020

And many situations reflect international professional and personal careers.

"I am Belgian citizen and I moved, with my Brazilian wife to Estonia a few months ago. My wife arrived around five years ago in Europe wanting to ask for a visa to study, but she could not find an apartment in the Czech city she was living in." Estonian resident, November 2020

One of the questions for the following steps of the analysis is to see whether this kind of international career or long-distance commuting are equally observed in questions submitted to local border information points.

At this time of the analysis, we should add two remarks concerning the population asking questions to the Your Europe Advice service. This service offers legal advice, regarding individual EU rights of citizens and businesses. It can be suggested that given this fact, the population asking questions to Your Europe Advice is relatively aware of its common European rights, and comfortable with seeking the support of legal experts. They also have access to the internet. Moreover, the working population and students are dominant among the different economic categories of the questioners (see graphic above) in comparison to the EU population as a whole. Therefore, the users of Your Europe Advice should not be considered as a fully representative sample of the EU population.

Difficulty of targeting a specific population living in the NUTS3 regions

The methodology to assess the sample makes it difficult to isolate entries that are specific to cross-border regions or to cross-border citizens' mobility patterns. There are no means or criteria here that could be used in order to target specific populations living in NUTS3 regions. Moreover, citizens tackle various situations in terms of work, place of residence, nationality, marriage. These various situations lead a significant part of them to have many links with other people or places in European or non-European countries. Access to civil, social security or mobility rights suffers from multiple borders, from many different competent administrations, and from various perimeters of restrictions.

Furthermore, it is difficult for the current analysis to distinguish or isolate "typical cross-border NUTS3 situations" (travelling from one country to a neighbouring one for work on a daily basis). There are a few, among all the Your Europe Advice cases. Every situation is specific, and there are just as many exceptions as there

are 'typical' cases reported (long-distance commuting, commuting between several countries, commuting to a neighbouring country but with long-distance travel, short-distance commuting but teleworking in another country, etc.). However, there are also a few entries that correspond to "typical cross-border NUTS3 situations", and that will be presented in the following. While the definition of general categories for the various cross-border mobility patterns is not for the moment appropriate, some of the general categories of issues generated by the Covid crisis and impacting cross-border citizens tend to emerge.

Based on the reading of many entries, three further categories of issues will be presented: the issues linked to cross-border mobility and pandemic circulation restrictions; issues regarding social security insurance and unemployment benefits (exacerbated in the pandemic context); and new issues linked to the development of cross-border telework.

(1) Issues regarding cross-border mobility and linked to the pandemic travel restrictions

Some of the entries directly refer to issues linked to cross-border travel restrictions and cross-border daily mobility. For instance, this case from a French resident can be cited:

"I work in a private school in Germany - subject to German law - and I live near the border in France. This was approved by the director of the college. Currently, due to covid-19, there are no trains or buses. I don't drive either and I can't go to school. Can I present which document or certificate? Do they have the right not to pay me for not being able to go there because there is no transport in this situation? Is there a document I can present to continue paying my salary?" French resident, May 2020

In this case, there is a direct link between the border closure, the interruption of cross-border public transport service, and the inability for the questioner to continue their professional activity. We could consider this case as a "typical cross-border NUTS3 situation": the person is commuting across a border between two neighbouring countries, on a daily basis, without travelling more than 100 kilometres. What is at stake here isn't directly related to Covid restrictions, but regards the interruption of a cross-border public service. **Difficulty accessing public services is one of the indirect consequences of Covid restrictions, and causes numerous problems for access to public offices** to get a visa, resident permit, or a social insurance certificate (see below).

Some other questions regarding cross-border mobility issues are directly linked to pandemic measures, such as quarantine. For instance, this weekly cross-border commuter asked: "I am resident in Spain, and I usually go to work to Germany from Monday to Friday. So, Am I allowed to travel every weekend without any restrictions?" (Spanish resident, April 2020) In other cases, the pandemic context

has provoked changes in the personal administrative situation of some cross-border workers (change of residence, moves to get closer to an ill parent, end of a work contract, etc.). These changes lead to new difficulties regarding the ability to cross the border. For instance, this German resident usually working in Germany, and who came back to live near his family in the Czech Republic during the first wave, cannot escape quarantine when returning to his workplace:

"In the recent outbreak of COVID-19, we have spent the shut-down of our working place in the Czech Republic. Problem appeared when we wanted to return to Germany to continue our work - Germany has implemented 14 days quarantine for people returning from longer period of time abroad with defined exceptions which includes cross-border commuters. However, to be sure we do not violate any law, we have contacted the local authorities to ask if we understand the German law correctly. Unfortunately, in their eyes, we do not categorize as cross-border commuters and ordered us 2-week quarantine. Their explanation is that we have a registered residence in Germany, as well as work there." German resident, April 2020

These three examples selected refer to various difficulties of cross-border mobility, linked to covid restrictions or to the interruption of public services. They are quite interesting to express the difficulty of defining – on a delimited territorial basis – what cross-border work is and what it implies in terms of citizens' rights. The two next categories of issues presented in the following paragraphs are also emphasising this complex reality.

(2) Issues regarding social security and unemployment benefits

Among the numerous questions linked to the country where the questioner who knows cross-border mobility should apply for social security insurance (see above the part of "social security" topic entries among the other categories), a specific issue could be identified as directly linked to the crisis: the increase of claims for cross-border unemployment benefits.

The proportion of questions linked to the subtopic "unemployment" is particularly high during the first wave of the crisis (15% of the questions between 12 March 2020 and 30 April 2020, versus barely 8% during the following periods). This reflects particular difficulties for cross-border workers, who faced the loss of their job because of the pandemic and had to overcome many obstacles to claim unemployment benefits (according to EU regulations, benefits are mainly awarded in the country of residence):

"I am a cross border worker; I live in Sweden and work in Denmark. At the end of March, I was laid off without pay (repatriated without pay) until mid-April. Reason was the consequence of Corona / Covid-19 and in accordance with Industries agreements it can be force majeure. So, because I was laid off without pay, I had

to apply for the unemployment insurance fund, otherwise I can't afford monthly bills. I am a member of a Danish industrial trade union. According to the law, because I was laid off for a certain period, I will get money from the country I work in, through my trade union. But they do not want to give me money because my address is in Sweden.” Danish national living in Sweden, April 2020

Other issues regarding access to social security for cross-border workers are specifically linked to reduction of administrative public services during the pandemic, lock-down measures and border closures that hinders mobility of users:

“Following the Covid-19 crisis, my international airline company put me on short-time work. Since the middle of March, I am at home, without work or salary. I'm trying in vain to get the U1 form, the SEPE site (the Spanish unemployment office) is really complicated and doesn't send anything outside Spain. You have to have an address in Spain or a Spanish phone number. Since I am a border worker, and my job allows me to live at home in France, I have no address or telephone in Spain. How can I solve this equation?” French resident, March 2020

Questions about social security insurance and unemployment benefits are particularly present throughout the entries studied (see the graphics in the quantitative Your Europe Advice analysis above; questions regarding social security represent 28% of the entries with specified topics), and cross-border work situations lead to specific issues. This observation is not fully dependent on the pandemic context. However, specific issues appeared during the pandemic linked to the increase of unemployment benefit claims and to public institution closures. Taking account of this exceptional situation, the cross-border coordination of social security operators was potentially more difficult.

(3) Issues linked to the development of cross-border telework

The development of teleworking is one of the major changes for many cross-border workers that appeared during the pandemic and the context of travel restrictions.

Among the entries read, there are many questions from cross-border workers (or from foreign workers becoming cross-border workers) about the implementation of teleworking in the pandemic context. Consequences concerning taxes and social insurance country of affiliation are the most common topic of queries.

One other more specific issue is when the legal status of telework from abroad is not sufficiently clear (because it is a new phenomenon for many companies), and provokes resentment of discrimination between colleagues that are able to telework from the same country and others that cannot do it from abroad.

"I am Portuguese and I work in France. My employer due to the Covid confinement informed us that everybody is obliged to do telework and that people are allowed to go to their family homes and secondary residencies in France and they only have to communicate their address. Since I am Portuguese and I have no family in France, I have asked them whether I can go to Portugal and do telework from my family's place. I would like to be with them to give them support during this hard time and to be more comfortable. They replied no, people have to stay in France. I find this to be rather discriminatory." French resident, October 31th, 2020

One other consequence of the pandemic toward cross-border teleworking that could be read from the Your Europe Advice entries is **the aspiration for new practices expressed by some questioners**, such as permanent cross-border teleworking from the same or from successive different European countries. What the rules are toward taxation and social security insurance is one of the questions asked several times. And what the impacts on European social security coordination and taxation might be is now one of the major questions facing European institutions.

"I live with my Belgian husband in Brussels (Belgium). I am employed in Germany (Hamburg region) where I have an apartment which I use when I am in Germany. Prior COVID-19 I was flying every week once back and forth between Belgium and Germany. During the COVID-19 pandemic I have been most of the time working from home (Belgium). It turns out that working remotely works very well so also after COVID-19, when tax exceptions are stopped between Belgium and Germany, I would like to continue working from Belgium for my German employer. [...] Can I continue being employed full-time for a Germany company but work/live abroad or should opt for a different statute such as freelancer/ being independent? Do I require to have an apartment in Germany or can I also stay in a hotel the few days a month I will be in Germany? [...]" Belgian resident, 13 February 2021

"I live in the Netherlands. And work for a Dutch company in the Netherlands as an employee. I want to be able to tele-work in other countries, because my partner often has to be in other EU countries for projects for an extended period of time (1 to 2 months). [...] However, since I decide to go "on my own terms", my company cannot support this. [...] What could be a possible solution, keeping in mind that in the future there will be different countries I would like to be able to go to for a short term and tele-work from there?" Dutch resident, 13 April 2021

Brief summary of the Your Europe Advice Analysis

Main results from the quantitative analysis

- Questions about "residence" or "social security" are the most frequent topics asked throughout the whole period

- Questions about cross-border work or specific CB situations represent 1% of the entries of the given extract whose topic is specified (24 entries are related to cross-border work or self-provision of services)
- Questions about “Border controls” emerged only after the end of the first wave, when lockdowns among EU countries tended to be suspended

Main results from the qualitative analysis

If many situations noted among the entries of this particular extract reflect international careers and atypical cross-border patterns (long-distance commuters, international family ties, intermediate complex situations...), some first conclusions can be drawn from this analysis. Indeed, the situations analysed are directly related to the restrictions implemented on many internal European borders. And the various distances travelled by the European residents do not precisely correspond to different cross-border issues. For example, the interruption of cross-border public transport services, Covid restrictions such as quarantine, loss of cross-border jobs or institution closures cause many difficulties for people involved in cross-border relations, whatever the distance they have to travel to go from their home to their workplace.

In the same vein, the numerous disruptions to European free movement led to a huge number of queries related to the right to enter a country without having the proper nationality, or of queries about which social insurance system the questioner should contact. Specific difficulties occurred, linked with unemployment benefit claims, in a context where cross-border work was not easy to recognize, and where competent institutions and authorities were closed to the public and not easily accessible. Also in this context, the development of teleworking provoked the emergence of new questions for European tax systems, in line with the cross-border free movement of the European workforce.

C. Analysis based on interviews with border information points and on-site observation

1. Introduction, feedback from the local cross-border bodies, and method

The second part of the analysis is based on four interviews with representatives of “border information points” and one on-site observation in a local organisation supporting cross-border commuters. This on-site observation led to 5 interviews with CB commuters and a local trade union representative.

The objective of this second part is to compare the various cross-border issues seen during the pandemic by the commuters supported by these bodies, and the issues that are revealed by the analysis of the Your Europe Advice extract. And the

aim is also to know more about the solutions these local organisations provide to the population, to get a better understanding of their role for cross-border territories in a period of crisis.

We should also link these questions with the feedback coming from the interviews and questionnaires with local cross-border bodies. **Many of these local cross-border bodies are asking for more information for the cross-border public, especially during periods of crisis.** Indeed, a lack of information is reported, with different Covid regulations on either side of borders, a lack of translations of administrative documents, etc. For some EGTCs, the crisis has led them to strengthen their role as citizen information centres, and to make it a priority for further developments of cross-border cooperation (examples on the border between Poland and Germany, between Belgium, Germany and the Netherlands, between Spain and Portugal, etc.). From a general point of view, **the local acceptance of the measures taken may have been quite low**, especially among the cross-border commuters who were faced with a higher level of constraints. After the first period of strict lockdown measures, many demonstrations took place in the border regions against the travel restrictions (examples at the border between Spain and Portugal, between Spain and France, and France and Germany).

The four interviews with border information point representatives were conducted with "Øresund Direkt" (based on the border between Denmark and Sweden), the "Euradria" project (border between Italy and Slovenia), the association "Frontaliers Grand Est" (working on several borders, between France and Belgium, between France and Luxembourg, between France and Germany, and between France and Switzerland), or the "Maison Ouverte des Services pour l'Allemagne MOSA" (border between France and Germany). The on-site observation took place in the MOSA's office, and there we met a local cross-border trade union ("Comité de défense des travailleurs frontaliers de la Moselle").

2. What is a border information point? What are the main differences between the organisations encountered?

A border information point is a permanent agency, helping cross-border commuters to cross the border by providing key information on the public services they can contact. Moreover, many of these information points are providing support to cross-border commuters for the various and complex administrative procedures they have to face. Some are helping them to deal with translation issues or difficulties accessing online procedures.

More details about the organisations met:

Øresund Direkt, is a permanent dual structure, implemented by the Danish and Swedish states. Cross-border users can obtain help by coming to the office in the centre of Malmö (Swedish part) or by using information provided on the website (implemented by the Danish part). On the Swedish

side of the organisation, 3 permanent employees are welcome the public, and 4 come from national institutions to hold weekly consultations. The 4 national institutions constituting the Swedish structure are the tax authority, the social insurance agency, the Swedish unemployment agency, and the local state representation. Around 15,000 commuters are living in Sweden and working in Denmark (and around 3000 in the other direction).

Euradria, implemented by the Friuli Venezia Giulia autonomous Italian region, is a European EURES project. The project coordinates a network of local associations and trade unions, providing information and support for cross-border users in their administrative procedures. The coordination of the project organises working groups with the social security operators competent on each side of the border. On this border, around 10,000 cross-border workers are commuting from Slovenia to work in Italy.

MOSA, is a permanent organisation set up with the help of an INTERREG project, and financed by French local authorities. The main office is in the centre of Forbach in France, and the 3 permanent employees hold weekly consultations in neighbouring municipalities. The MOSA also hosts consultations of a local cross-border trade union, and of French and German social security operators. On this border, around 14,000 commuters are living in the Moselle Department and work in neighbouring Germany (Saarland).

Frontaliers Grand Est, is a permanent association financed by a EURES project and by the French Region Grand Est. The association is mainly known for providing practical information by publishing guidebooks on administrative procedures with the four neighbouring countries. Thanks to a team of 5 legal experts, the association helps the local border information points which are not able to cope with the most complex legal situations. It also helps users by email or over the phone, providing them with advice on legal aspects (tax, social security, working conditions). Last but not least, the association is working closely with national and local institutions (tax authorities, social security operators, public employment services, local authorities, etc.), in order to give them feedback on obstacles cross-border users are confronted with. Publications and information provided by the association can therefore be used by all commuters crossing the four borders concerned (even outside the Grand Est region, commuters travelling from France to Switzerland, or from Belgium to the city of Lille in the North of France can use the website and the resources developed by the association).

Moreover, with a different purpose than the public border information points, local trade unions are able to represent cross-border workers in their legal procedures.

3. What are the cross-border mobility patterns of the public supported by the border information points, and how were cross-border citizens affected by the pandemic?

In the local border information points with in-person meetings, **the majority of the public targeted by the border information point lives near the border.** Some exceptions can be seen, with people coming from other cities and wishing to settle in the cross-border area, but these exceptions seem to concern border information points which are also providing online resources (Øresund Direkt or Frontaliers Grand Est), more than BIP that are only accessible on-site (MOSA or EURADRIA).

Moreover, the proportion of cross-border workers in industry, the proportion of workers able to work remotely, mobility patterns, and abilities for conducting online administrative procedures, seem to vary greatly between border info points located in big metropolitan areas (Greater Copenhagen, Luxembourg) and those in more rural/industrial ones (Ardenne region between France and Belgium, Saar-Moselle cross-border area between France and Germany...). **In metropolitan areas, we heard more concerns about teleworking, long distance commuting, and ability to cope with online procedures, than in industrial ones.** It is also a difference with the questions submitted to Your Europe Advice, which seem to come more from a public that copes with long distance commuting, or tends to be more comfortable with administrative online procedures.

Given these preliminary observations, needs and obstacles faced by the local cross-border population are different, and can be observed to vary depending on the area, or depending on the user's professional activity.

For instance, the MOSA was closed during the first lockdown period, and only accessible by email. There were therefore very few requests from users, because the majority of the public supported by the organisation is not familiar with online procedures. At the border between Slovenia and Italy, the information centres of the EURADRIA project remained open throughout the period, because they were considered "essential services". A slight increase of the number of requests was observed, and more significantly, a complete change in the kind of questions asked appeared.

Indeed, for every border info point interviewed, most questions asked during periods of major border restrictions were about Covid regulations and differences between these regulations on either side of the border. For instance, differences in the legislation for Covid vaccination led to many questions and difficulties for cross-border workers at the Italian-Slovenian border, unable to work without the same vaccination scheme as their colleagues. Also, discrimination resentment was felt at the French-German border, with Covid protection measures only applied to cross-border workers. People living in France and working in Germany needed to have a Covid test every day, when crossing the

border. They were not allowed to buy consumer goods on the German side during certain restriction periods. Some were blocked at the entrance of their workplace, on the basis of their French residence. It provoked discrimination resentment, given that their German colleagues (nationals or residents) were not subject to the same measures.

"The problem was that I had to be tested every day to work, and without testing you couldn't work. But what is not normal is that the Germans did not have to be tested. When French people wanted to go shopping in Germany, they had to be tested, otherwise they received a fine. I don't consider this normal." French resident interviewed in the MOSA, 26 April 2022

A huge demand for information came from the local cross-border population during border restrictions periods. Øresund Direkt observed a 60% increase in visitors to its website in 2021 compared to 2019. That is also the observation of Frontaliers Grand Est, who were confronted with many queries submitted on their website, and who tended to communicate more and more about Covid restrictions during the crisis. According to the director of the association, the role of an organisation like Frontaliers Grand Est during the most acute period of the pandemic was also to reassure the public on border restrictions and possibilities to maintain their professional activities.

At the same time, border information points were still confronted with "classical demands", with questions regarding social security insurance, double taxation and unemployment. Two key points may be underlined: **some institution closures affected cross-border workers in the handling of their administrative procedures, and required some adaptations/exemptions.** For example, Frontaliers Grand Est negotiated with a public foreign operator the fact that if application forms were posted to claim unemployment benefits in this period, the day of the postal processing would be taken as the day of processing by the competent authority. A second point is that there were numerous demands for unemployment benefits because of the general Covid restrictions implemented in the different countries. This caused difficulties in some cases in accessing unemployment benefits in a cross-border context, and border information points play a key role here by soliciting the competent institutions and giving dedicated advice to users.

"If I had known earlier that there was the MOSA I would have come much earlier, because as far as unemployment benefits are concerned, I waited for 3 months without salary and without knowing what to do. The public employment service referred me to my employer, who in turn referred me to the public employment service, and so on. I was left to fend for myself. With the support of MOSA, the file was unblocked." French resident interviewed in the MOSA, 26 April 2022

The last point about cross-border issues observed in the border information points is the development of teleworking, particularly observed by Øresund Direkt or by Frontaliers Grand Est (less present/missing in the cases of Euradria or MOSA). The

development of teleworking raises many new questions about regulations in different countries, employers' acceptance, and double taxation. This major change in the work practices of some cross-border workers has to be accompanied, in order to provide clear and practical information, and to report difficulties encountered to the competent authorities.

To summarize, **the three kinds of issues observed thanks to the questions submitted to Your Europe Advice** (issues linked to cross-border mobility and pandemic travel restrictions; issues regarding social security insurance and unemployment benefits exacerbated in the pandemic context; new issues linked to the development of cross-border telework) **are also observed by the local border information points interviewed**. However, the cross-border commuters supported by the information points seem to have different characteristics compared to those submitting queries to Your Europe Advice, because most of them live a few kilometres from the border. **Moreover, the role and actions of the information points are not the same as those of the online platform, as they provide specific support to cross-border mobility.**

4. The role of Border information points to report cross-border obstacles

Some of the border information points interviewed have played a specific role during the crisis, in reporting the various obstacles users were confronted with. For instance, Øresund Direkt sent a report to the Nordic Council about the new cross-border obstacles faced by citizens. The EURADRIA project is organising working groups with social security operators from both sides of the border in order to obtain better management of cross-border administrative situations. In the French Grand Est Region, Frontaliers Grand Est is collecting information from the public and from "first row" border information points such as MOSA in order to inform the local and national authorities about the obstacles faced by people crossing the borders. These obstacles, especially relevant during a crisis period, mainly fall under two types.

The first type regards administrative procedures, and the need to have experts for interpreting cross-border tax conventions or social security agreements, depending on the situations encountered by citizens. The second type of difficulties concerns cross-border mobility, and the need expressed by local and national authorities to know more about the challenges faced by people crossing the borders. For instance, during the first lockdown period in March 2020 at the French-German borders, the Grand Est Region and its 3 neighbouring German Landers implemented a "crisis committee" with daily or weekly meetings. National authorities then joined the committee. In this framework, the role of the association Frontaliers Grand Est was to report directly to the region about obstacles faced by citizens. To give a specific example of problems encountered, commuters from France to Luxembourg who have to cross the German territory were not allowed to enter Germany. The reporting of this kind of situation by the border information

point to the committee led to better adjustments by the German competent authorities, in order to allow these people to reach their workplace.

From our interviews, two advantages became apparent about the position of the border information points for reporting cross-border obstacles. Firstly, their proximity with the users could be seen as a great asset. It is **an asset for understanding concrete issues faced by the inhabitants of the cross-border territory, but also an asset to explain special measures or policies that are implemented** on the cross-border territory. From the point of view of the interviewees, border information points had a special role during the crisis to reassure the population about the measures taken. The second advantage is their general apprehension of cross-border situations. By contrast with a thematic approach – such as the approach of the tax authority, the social insurance operator or the public mobility service – the approach of the border information points towards cross-border situations is holistic, and allows a broader perception of the cross-border obstacles citizens are faced with.

5. Citizens' expectations and recommendations

In this part of the report (task 3), we focus on the challenges faced by citizens during the crisis, the new practices they had or the new obstacles they were confronted with, and also on the role the border information points were able to play in this period. In reference to the 6 spheres of "collective action" (see the concluding part – task 5 – below), border information points as public services belong to the functional sphere and contribute to building the bridge between the social security and fiscal frameworks of two neighbouring countries. Moreover, by informing cross-border citizens and helping them to cross the border, they take an active role in the economic cross-border sphere (by strengthening the integration of cross-border labour markets), and in the informational sphere, by **offering common knowledge of the various cross-border policies and measures taken by the competent institutions**. From a general point of view, by learning and responding to the obstacles faced by citizens and giving appropriate reports to the competent authorities on each side of the border, border information points could be seen as one of the levers for institutional cross-border integration (institutional sphere).

To conclude this part, a few words should be added about policy expectations and recommendations, from the point of view of the various persons met.

The main expectations are about the need for more information/communication and easier administrative procedures for people living in the border regions. The difficulties expressed during the crisis concern in particular the differences between regulations and the numerous (uncoordinated) changes of these regulations on each side of the border. Also, border information points should benefit from **long-term support** from the various levels of public authorities, (regarding the European Commission, two tools can be mentioned: the importance

of the EURES programme, and at some point, the INTERREG programme for this kind of organisation). **More communication about the existence of these information points is also needed.** They could be referenced as cross-border public services and should remain physically open in a crisis time. Some people encountered during our onsite observation regret that they were not aware of the existence of the MOSA when they were in trouble with their German employer during the crisis. If they had known the existence of the border information point, they would have been able to cope with complex administrative procedures regarding labour law or to claim for cross-border unemployment benefits. **Citizens encountered are also calling for more consideration by the public authorities toward their cross-border situation, especially during the crisis when they felt discriminated against, when comparing their situation with their non-cross-border colleagues.**

Expectations from border information points also concern improvements in the way cross-border administrative files are managed by the national administrations. **Fully aware of the difficulties concerning the public, the border information points interviewed are indeed expecting more coordination between tax authorities and between social security operators.** The ability to interpret international conventions, or the labour laws in two different countries (who might use different languages) requires high-level legal skills. Some civil servants in the different competent authorities may be insufficiently trained on cross-border administrative procedure requirements. Moreover, with the development of teleworking, some cross-border workers tend to live far away from borders, where competent administrative institutions may be less aware of the complex procedures they have to follow. **Dedicated cross-border correspondents working inside each competent administrative authority could be a possible solution to these difficulties.**

To draw some initial conclusions resulting from this last analysis, **border information points could form part of a holistic approach of the border regions' crisis management, and could be the instruments of a "cross-border mechanism"** (see the recommendations in the concluding part – task 5 – section "Towards a bottom up, multilevel governance of borders and CB regions"). The aim would be to:

- take greater account of the cross-border obstacles users are faced with,
- give appropriate reports to the competent public authorities,
- and communicate more to users about policies that are implemented in cross-border territories.

In this cross-border approach, it would also be important to consider them as "essential public services" during crisis periods, as is already the case for the Euradria project and its network of local information points.

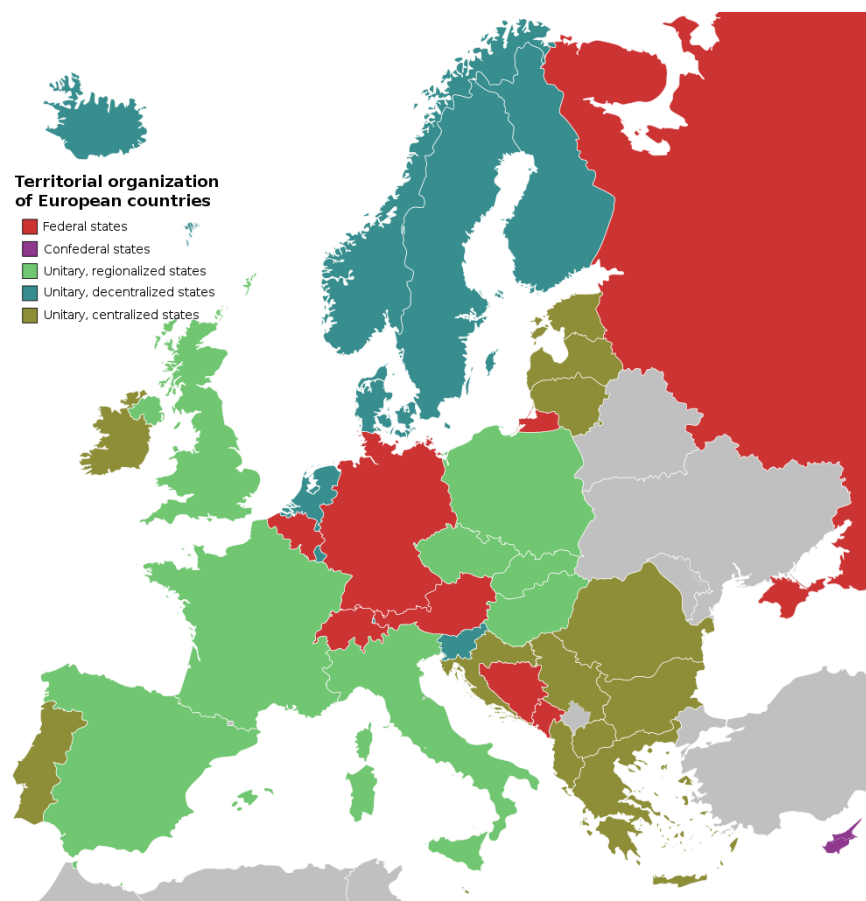
IV. CHAPTER 4:

THE ROLE OF ALL LEVELS OF GOVERNMENT IN THE MANAGEMENT OF BORDER-RELATED ISSUES

A. Introduction

This chapter aims to assess the role of all levels of government and of key stakeholders such as EGTCs or Euroregions in facilitating (or not) cross-border life in the COVID-19 context. Crisis management policies will be analysed in light of the specific territorial and political organisation of each EU member state (see map below). Indeed, we will witness a great diversity in the approaches to national border management.

Figure 4.1: The territorial organisation of European countries



Source: Contemporary European Politics, page 310, Creative Commons Attribution-ShareAlike 4.0 International

For this purpose, we will first look at the different forms of coordination in border

management between the national level and the local level. We will also explore the role of regional authorities. In order to understand the learning process of border authorities in border management, we will look into some examples where cross-border coordination improved after the first wave of the pandemic.

Another important element of this chapter will be to understand in which cases the authorities opted for the activation of existing cross-border committees and where they supported the emergence of new “Border management committees” during the pandemic. In order to deepen this analysis, we will also assess the role and the added value of existing cross-border cooperation structures. Finally, we will see that in some rare cases, National Recovery Plans have been an opportunity to integrate a cross-border dimension in their local application.

B. Forms of coordination in border management between the national level and the local level

« Force majeure » and « state of emergency » have dictated the agenda at all policies levels from March 2020 to the beginning of 2022. The first study carried out by the MOT for the European Commission after the first wave of the pandemic had already identified 5 main coordination settings which had emerged during the first wave of the pandemic (see table below, including some case studies).

Table 4.1: Different crisis management models identified in the study “The effects of COVID-19 induced border closures on cross-border regions”, 2021

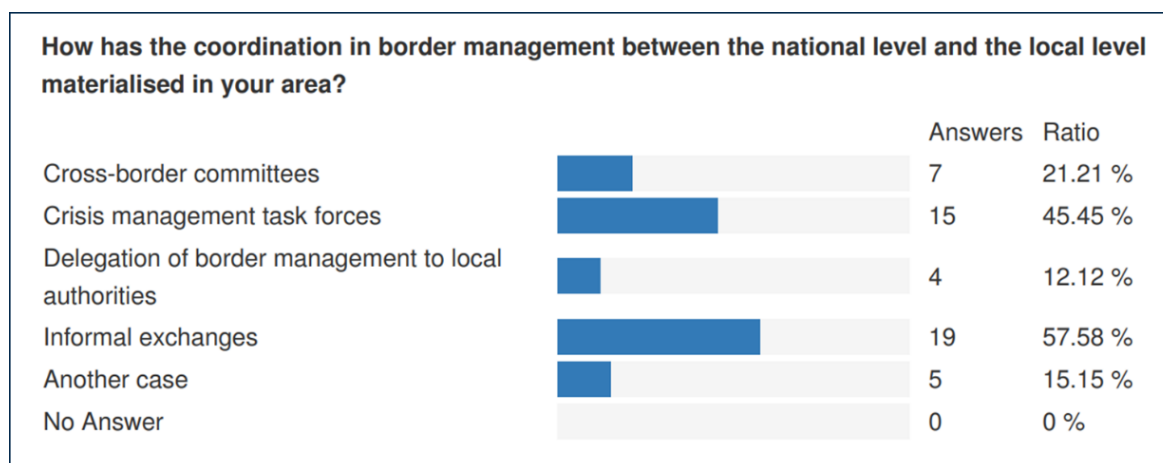
CB crisis management model:	Role of the CB structure	Examples
Direct management	CB structures on the front line: setting-up task forces, keeping track of the number of available beds in the region, organising the transfer of patients...	Euregio Meuse-Rhine (EMR)
Indirect management	CB structures support the setting up of dedicated task forces gathering several stakeholders to manage border related issues	Euregio Tirol Südtirol Trentino (IT-AT) ; Regio Insubrica (IT-CH)
Agreements and existing committees	The Aachen Treaty and its Cross-border Cooperation Committee (CCC): two extraordinary CCC meetings were set-up for crisis management and for organising the post-lockdown phase	French-German border
Informal coordination based on networks	Specialised approach based on a diversity of stakeholders involved in crisis management depending on the thematic field (PEACE programme, InterTradeIreland, Police...)	Ireland-Northern Ireland border
Direct exchange between two local authorities	CB structures as a facilitator, drafting summaries and policy briefs on the evolution of the restrictions and of the pandemic	EGTC GO (SI-IT)

As part of this second assignment, the objective was to investigate in detail the role played by national actors - in almost all cases in charge of border management - while analysing the role entrusted to local and regional actors and cross-border

bodies.

According to the representatives of cross-border bodies and Interreg programmes who took part in our online survey, the most common forms were informal exchanges followed by ad hoc 'crisis management task forces' (see table below).

Figure 4.2: Results of the online survey of local stakeholders about types of coordination in border management



Interviews carried out with representatives of national level administrations confirmed the leading role played by the national level in coordinating the responses to this unprecedented crisis.

In Austria for instance, despite its organisation as a federal state and despite the fact that all Austrian regions (except for the capital) are border regions, in times of emergency the federal level takes all the decisions in terms of border management. In this configuration, each Austrian Land had to administrate the measures decided at federal level.

Figure 4.3: Map of administrative divisions of Austria

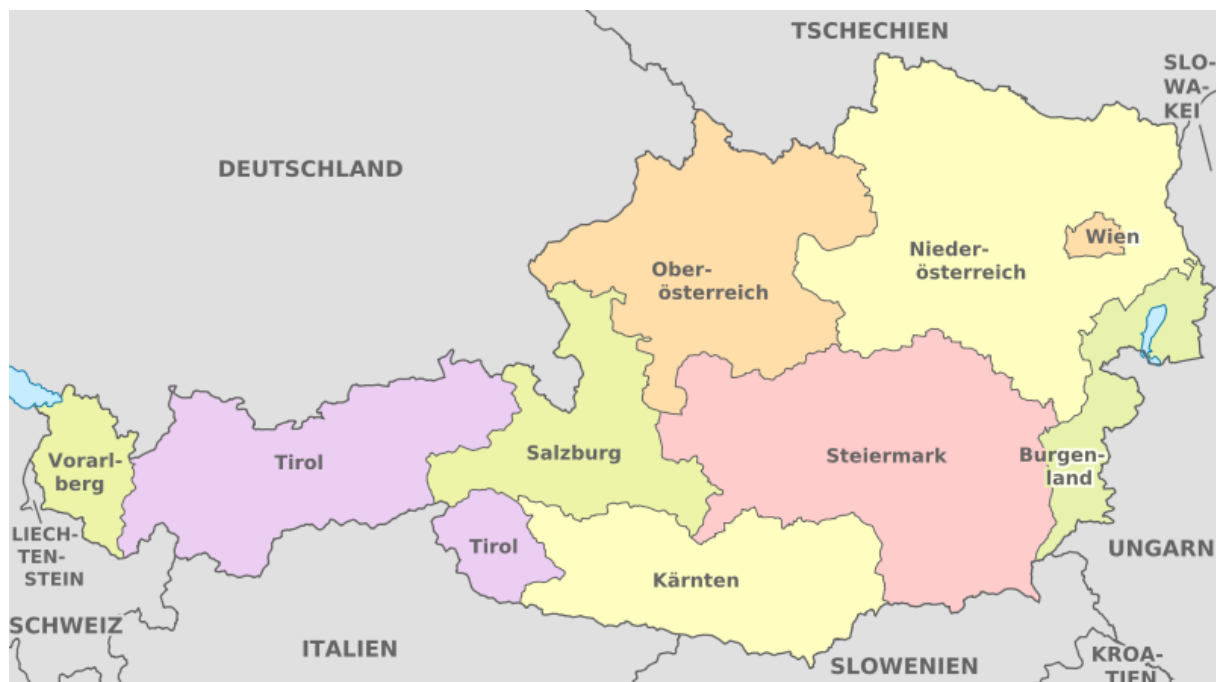


Figure: Map of Austria and its Länder, Wikimedia Commons

In smaller countries such as Estonia or Luxembourg, the local level of municipalities had no role at all in border management. Everything was managed by the national ministries. In the case of Estonia, these ministries set up regular bilateral meetings with neighbouring Latvia and Finland.

In Hungary as well, as a very centralised country, there has been no claim on more competences by local authorities in terms of border management competences. The main request by local authorities was to be able to receive the right information at the right time.

A similar need and main lesson learnt involving the coordination between the national and the local level has been identified in the Benelux region, where our interviewees explained that the information quality between the countries needs to be harmonised and more coordinated. So, it is not only the level of preparedness, but also the level of data sharing, that are important for acquiring good knowledge of how many people are crossing the border, and the exact same criteria apply for obtaining good data on how many people are sick in the border region.

Finally, some stakeholders from the ES-FR, DE-PL and CZ-DE borders expressed their difficulty in obtaining any kind of information related to border issues from the national level in countries like France, Poland and Czechia, at least during the first wave.

The Secretary General of AEBR also mentioned an interesting point of caution consisting – in some cases – of a clear contradiction between high-level political statements in favour of border permeability and daily interactions across the border, and the reality of border management in times of crisis, which was disappointing for several border stakeholders.

In the following sub-sections the precise role of different levels of government will be analysed, from the intergovernmental level to that of local authorities.

1. Intergovernmental cooperation forums

In some regions of the EU, intergovernmental cooperation forums are important political tools for coordinating neighbouring Member States' policies at a multi-national level. Thanks to the interviews which were carried out, we gathered knowledge on three examples of cooperation forums activated during the crisis: The Baltic Council of Ministers (BCM), the Benelux Union and the Nordic Council of Ministers.

- **The Baltic Council of Ministers (BCM)**, was established on 13 June 1994, and is an institution for governmental cooperation between Latvia, Lithuania and Estonia. This platform, which does not have a formal secretariat, was a political umbrella for the cooperation between the three Baltic states during the whole pandemic.

In particular, these three Member States, coordinated with each other for a joint border reopening: on 15 May 2020 - the Ministries of Foreign Affairs signed a Memorandum of Understanding entitled: "Lifting of Travel Restrictions Between Estonia, Latvia and Lithuania For Land, Rail, Air And Maritime Transport And Cooperation Thereof During The Covid-19 Crisis". The so-called "Baltic bubble" was the first example of coordination regarding a softening in border restrictions between Member States. An extract of this MoU is provided below: "Noting the need to re-commence regular passenger traffic across borders by land, rail, air and maritime transport between the Baltic States to minimize the economic and social impact of the restrictions imposed to halt the spread of the COVID-19 and to ensure freedom of cross-border movement of persons;"³⁷

³⁷ MoU on the Estonian government website (2020) :<https://vm.ee/en/news/mou-lifting-travel-restrictions-between-estonia-latvia-and-lithuania-land-rail-air-and-maritime>

Figure 4.4: The Memorandum of Understanding signed by the three Baltic States



Source: the official website of the Estonian government

- **The Benelux Union** was created over 60 years ago between Belgium, Luxembourg and the Netherlands.

In the Benelux context, there is a very intense cooperation between the three national crisis centres and this on the basis of the Memorandum of Understanding concluded in 2006 on cooperation in the field of crisis management with possible cross-border consequences³⁸. However, since the Benelux Union remains very intergovernmental, national governments always have their final say in policies to be implemented. In this context, the crisis centres in the Benelux countries were in constant contact with each other during the COVID-19 crisis and information was exchanged using the transmission system which provides for information on a crisis situation with cross-border consequences to be sent, twenty-four hours a day and seven days a week.

What emerged in time was the importance of the exchange of information and also of good practices, in order to be fully aware of what the other countries were implementing or planning. The objective here was to notify and to inform the neighbouring countries before the restrictions actually took place, so that they would have the necessary time frame to prepare and to inform other local authorities and citizens.

This information sharing process did not prevent the emergence of difficult border management situations, especially for the local level: the difference between the Netherlands and Belgium in the measures implemented in the early stages of the

³⁸ Memorandum of Understanding on cooperation in the field of crisis management with possible cross-border consequences (2006) https://benelux.int/files/6913/9230/2871/MoU_crisis_2006_NL.pdf

crisis led to a lot of confusion in border municipalities about their application, especially in the enclave of the Municipality of Baerle-Duc / Baarle-Hertog. A number of municipalities have therefore maintained direct contact with the BSG (Benelux steering group) in order to make immediate use of the various (political) networks if necessary.

- **The Nordic Council of Ministers**

Similarly to the two above-mentioned intergovernmental forums, the **Nordic Council** – which was established in 1971 between Denmark, Finland, Iceland, Norway, Sweden, the Faroe Islands, Greenland and Åland – also played a key role during the crisis. In this specific context, order information points, such as Øresund Direkt, North Calotte Border Counselling Board, Grensetjansten Sweden-Norway and Info Norden, were asked to produce weekly or monthly reports on concrete border obstacles faced by citizens. A contact point within the Freedom of Movement Secretariat at the Nordic Council of Ministers helped organise transmission of this information to the relevant ministries in each country, in order to implement joint solutions to these new situations engendered by the crisis. During the summer of 2020, the Freedom of Movement Secretariat took the initiative to launch a survey which was very successful: by July 2020, 1,669 people had responded to the survey, shedding light on some of the most pressing issues and challenges for people living in border areas (NordRegio; MOT's 2020 study).

Nonetheless, according to the NordRegio study, the Nordic cooperation hit an all-time low during the pandemic. It was clear that the Nordic Council of Ministers was not going to interfere in border management, indicating that it was not a crisis-management organisation. To quote NordRegio (2021): "In a critical situation such as the current one, states would have been expected to show greater confidence in the Nordic Council of Ministers. Instead, they turned their backs, giving the message that the Council of Ministers is not a crisis-handling organisation. Instead of adapting the Nordic Council of Ministers to be a possible co-operation platform during a pandemic, they seemingly turned inwards, moving away from their Vision of becoming the most integrated region in the world."

2. National level

As explained above, under a state of emergency, the national level was almost everywhere in charge of all the decisions involving free movement across national borders. Due to this concentration of powers in the capitals, cross-border issues and the impact on cross-border interactions and flows were not always recognised by national governments.

Luxembourg is somehow an exception in Europe, where the national and the local level basically correspond and where cross-border flows are extremely important for the economy of the Duchy. These two aspects implied that cross-border issues were taken into account with the utmost attention by the national government.

The national level was also very often in charge of concluding bilateral agreements to deal with new obstacles, such as in the example between Belgium and the Netherlands, where an agreement was signed to deal with the taxation issues of commuters who had to work in their country of residence during the pandemic.

Cross-border mobility was a major field which required the intervention of the national level. In a country like Hungary, characterized by the presence of 1 million Hungarian speaking individuals living outside the country's borders, the government had to immediately come up with solutions for border crossing. Negotiations lasted less than a week.

Detecting the most relevant border crossing points and ensuring transit of freight traffic and cross-border workers across the borders while trying to slow down the spread of COVID-19 was somehow a new challenge for cross-border cooperation from the perspective of the national level. In Hungary, an agreement was found with six of its seven neighbours on allowing cross-border workers to cross the border. According to CESCO, cross-border coordination around Hungary was designed and implemented on a bilateral basis. For each neighbouring country, the decision was taken at the national level as part of an agreement with the Hungarian government, which led to very different types of restrictions depending on the border (among which the 30 km rule was the most common). It has to be noted that, despite the fact that it is an external border, the buffer zone with Serbia was wider (50 km from the border) because of larger cities and employers being located further away.

Austria applied a very strict and specific approach in the management of the pandemic with bordering countries: rules changed depending on statistical data on a daily basis. Where numbers were increasing, tighter restrictions were applied. This approach remained quite exceptional in Central Europe according to CESCO.

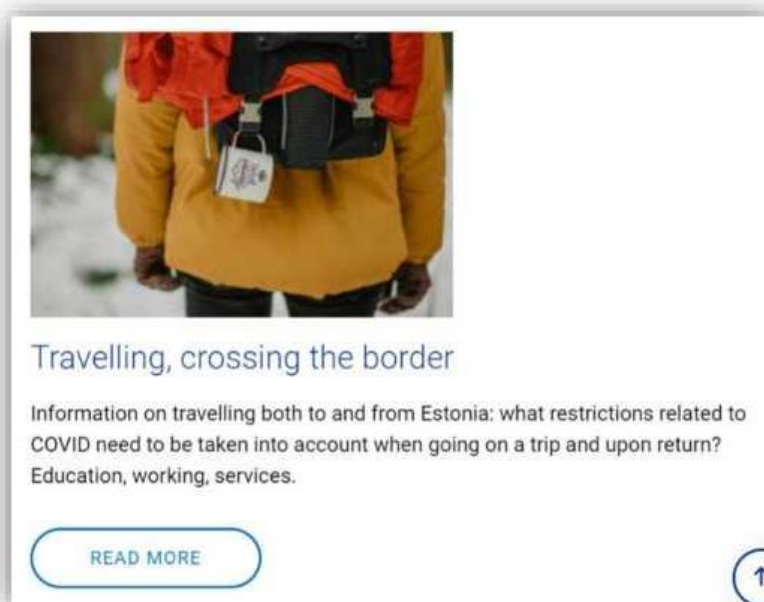
The prominence of the national level was also visible in the field of health. In Austria for instance, despite healthcare policies falling within the competences of regions, the emergency put the federal level in the frontline of crisis management. Regular discussions between the federal level and the regions were organised to raise awareness on specific effects of measures decided at national level.

The approach based on medical statistics was also very present in Germany, where restrictions were based on the decision of the Agency of Public Health and on the data produced by the Robert Koch Institute. Since Luxembourg was testing a lot more than any other country, with the entire population of the country tested every month, the rates were very high in Luxembourg. This led to difficult relations with the German authorities who decided to apply restrictions at the DE-LU border.

Informing citizens on the travel restrictions in force was also an important task led by the national level. In the case of Estonia, where the former Euroregions with

Finland, Latvia and Russia are not active anymore: all information on travel restrictions was provided by the national government via the portal. A phone number was available 24/7 to answer people's questions. The same number and portal are now used for managing issues related to the war in Ukraine.

Figure 4.5: The Estonian "crisis" webportal



Source: Government of Estonia

Finally, we can generally notice a lack of consideration at the national level of cross-border regions' specificities, under an integrated approach. Germany has recently become a positive example of such an approach in the field of cross-border cooperation. The Division for "Cross-Border Regional Cooperation" of the Federal Ministry of the Interior and Community was created in 2019 and proved particularly useful during the COVID-19 crisis. The federal government has granted its support for this new Division and there is now a consensus on its added value and on the fact that the different border cooperation committees established during the crisis are now still very useful for establishing a stronger cross-border governance with Germany's neighbouring states.

3. Regional level

In most cases, the regional level was involved in bilateral or multilateral cross-border committees set up by the national level. In federal countries, where the sub-national level is very powerful, coordination between regions and the neighbouring states was often strong.

In the case of Luxembourg, contacts with Rhineland-Palatinate and Saarland were

very regular and close. Following the classification of Luxembourg as a risk area by Germany, the neighbouring *Bundesländer* adopted quarantine rules that took into account the cross-border lifestyle in the Greater Region.

To give another example of hybrid coordination, regular coordination meetings between the three Member States of the Benelux Union started involving more and more regions, such as the surrounding regions of Hauts-de-France, NRW and Rhineland-Palatinate.

Regions were also very active in implementing informative measures targeting citizens, such as the trinational user-friendly tool for checking border restrictions in real time, provided, at the end of 2021, by a partnership led by the Grand Est region and the European Collectivity of Alsace and associating the INFOBEST network and the European Consumer Centre in the metropolitan Upper Rhine region.

Figure 4.6: Digital border crossing tool in the Upper Rhine (FR-DE-CH)



Source: Infobest.eu

In other cases, such as at the border between Poland and Germany, the Länder often offered solutions to Polish cross-border workers who could not commute anymore due to the strict rules imposed by the Polish government. In the case of the Pomerania Euroregion, the northernmost Euroregion of the Polish-German border, the Land Mecklenburg-Vorpommern introduced an allowance for cross-border workers during the border closure consisting of 75 euros per day per worker and 20 euros for each member of the same household.

Regions were therefore active in finding practical solutions for reducing the effects of border crossing restrictions decided at the national level.

4. Local level

Finally, the local level had a strategic role as it was the level directly confronted with the everyday problems faced by local border inhabitants. As detailed in the first study by the MOT (2020), the local level acted, relying on local cross-border bodies, by giving voice to the problems encountered at local level and directing them to the highest level to find practical solutions.

As an example, we can mention the city of Valga, where the local mayor was very active in raising awareness on daily obstacles in this very intertwined twin-city. As a follow-up to these claims, new adjustments were made to better take into account the specific status of the Valga-Valka twin cities as part of national border restrictions.

All in all, with these strict restrictions on free movement across borders, it is clear that national governments have seemingly undermined the municipalities' legitimate authority to decide on strategic services. The NordRegio report (2020) explains well that "By moving away from the principle of subsidiarity, the state applies one-size-fits-all policies undermining the value that multi-level and soft governance approaches, such as the structures for inter-municipal collaboration across borders, offer in implementing solutions to inherently diverse regions."

C. Cross-border coordination after the first wave of the pandemic

This second sub-chapter aims to understand the "learning process" experienced by local and national authorities over the course of the pandemic in terms of cross-border coordination and increased awareness of the difficulties experienced by the inhabitants of border regions.

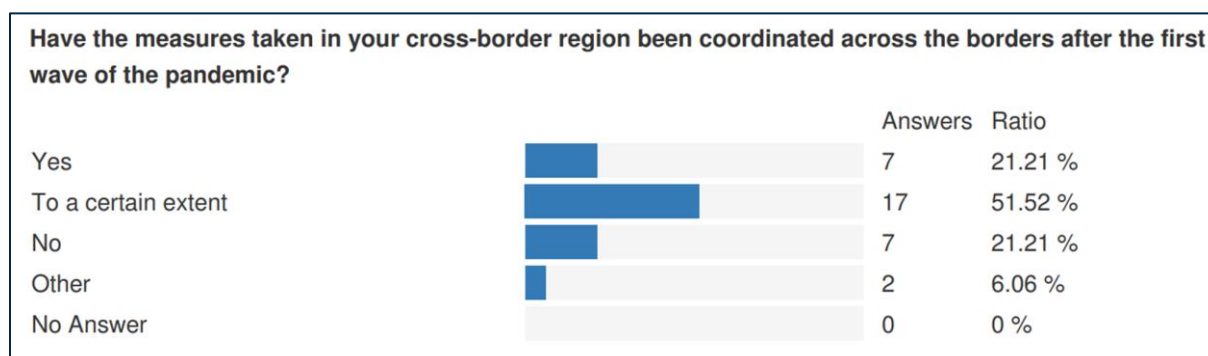
First of all, the first lesson learnt from the study is that touristic reasons often prevailed in justifying the lifting of border restrictions. Several national level stakeholders mentioned cross-border and international touristic flows as the main driver for border reopening.

In Austria, for instance, there were several phases of opening and reclosing corresponding to the different waves. The situation became quite difficult during the autumn of 2021, when Germany added Austria to the countries in its red list. This had a consequent impact on the economy of Western Austria, which is highly dependent on tourism spending, especially from Germany.

Among the cross-border bodies and the Interreg programme which contributed to

our survey, half of the respondents consider that the measures after the first wave of the pandemic were coordinated “to a certain extent”.

Figure 4.7: Results of the online survey of local stakeholders about the coordination of measures taken in cross-border regions



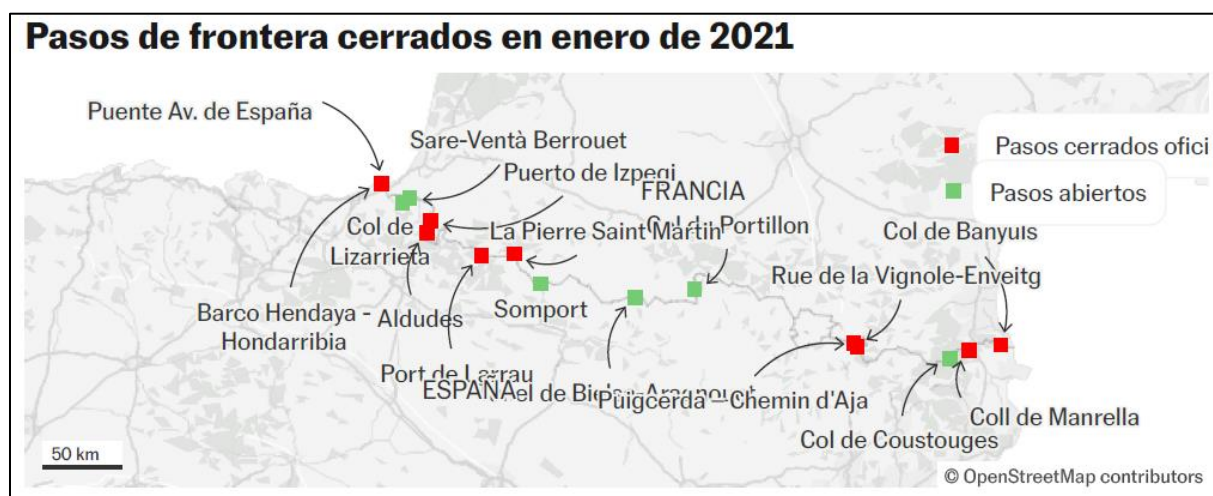
Among the cross-border regions where improvements were perceived by local stakeholders can be found the following borders: CZ-DE, the Greater Region (LU), the Euregio Meuse-Rhine, FR-BE...

Conversely, coordination across the border does not seem to have improved consistently along the following borders: DE-PL, ES-PT, DK-DE, FR-ES ...

Between Spain and France in particular, the situation at the border was very tense throughout the two-year period. In December 2021, the territories comprising the Working Community of the Pyrenees (CTP) expressed their "concern" at the continued closure of 10 border crossing points (see map below) between Spain and France that had not been reopened following the COVID-19 pandemic. This concern was stated in a declaration³⁹ by the presidents of four Spanish autonomous communities (Catalonia, Aragon, Navarre and the Basque Country), two French regions (Occitania and Nouvelle Aquitaine) and the Andorran state, deploring a "consequent harm to cross-border citizens" and stating that maintaining the closure could violate the spirit of the Schengen Treaty, while also assuring that the continuation of the closure means the "suspension of cross-border activities of great tradition and economic impact" in regions at risk of depopulation.

³⁹ Déclaration du Conseil Plénier de la CTP, 13 January 2021 https://ctp.org/wp-content/uploads/2021/12/Declaracion-de-presidentes-y-presidentas-Consejo-Plenario-CTP-2021_FR.pdf

Figure 4.8: Border crossing points closed as of January 2021



Source: El Pais, "Francia se resiste a abrir completamente los Pirineos"

On the other hand, a positive example of a region where a real learning process was observed, is Benelux: as explained above, since the beginning of COVID-19, the Benelux Union Secretariat had already proven its added value by setting up several communication platforms in order to optimally streamline the exchange of information between the three countries. One of these platforms dealt with crisis management and brought together the Directors-General of the Benelux crisis centres. At the peak of the crisis, this consultation took place every week to ensure an almost permanent exchange of information between the three crisis centres. In 2022, these meetings were still continuing, on a monthly basis, and contributing to ensuring better decision-making that takes into account the specificities of each of them. Most importantly, in terms of a learning process, although this is happening at the Benelux level via their Covid platform, the Secretariat is now also acting at the European level with the implementation, in 2022, of the initiative to set up a network of Directors-General of European crisis centres, under the same objective: strengthening a coordinated approach in order to increase the level of preparedness in facing future crises.

Nonetheless, even in this very integrated region, despite numerous bilateral consultations, the restrictive measures taken by the countries as a matter of urgency were sometimes a source of misunderstanding for citizens, particularly in border regions. For example, there have been many misunderstandings about police controls. Several meetings were therefore organised starting from November 2020 in order to share information to identify specific problems and to put forward new ideas and good practices to improve the situation on the ground.

In Germany, the national division on cross-border cooperation was only set up in 2019 within the Ministry of the Interior. When the crisis appeared, several emergency committees were set up with neighbouring countries and new links with

neighbouring stakeholders were built. The new federal government has acknowledged the usefulness of these bilateral committees and aims at keeping them running, even under an informal status, to develop the cooperation on everyday projects in any possible thematic field (education, transport, etc.). In this specific case, the crisis became somehow an opportunity to reinforce ties with neighbouring partners.

D. The activation or emergence of “Border management committees” during the pandemic

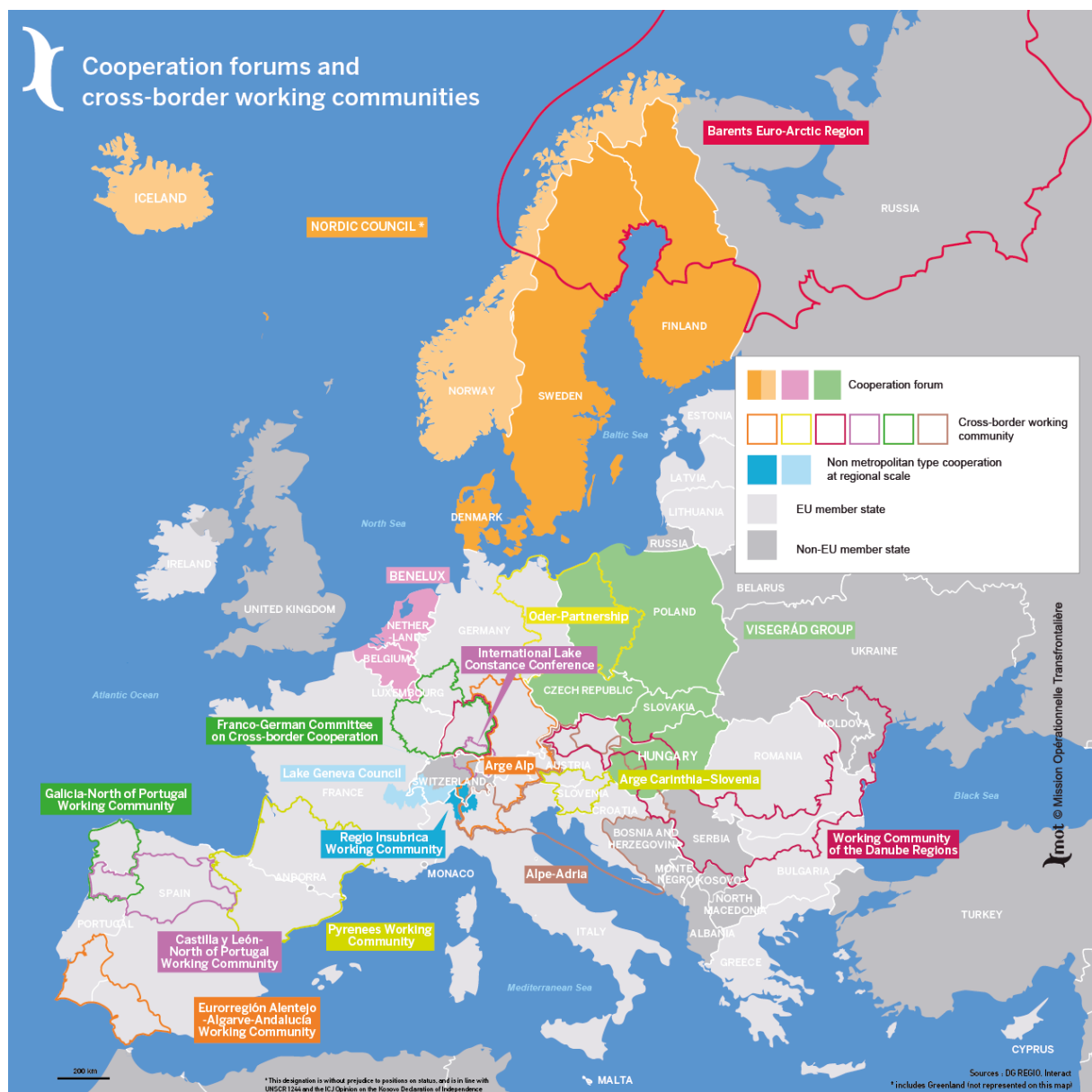
In this sub-chapter, we will see that different options were available to authorities in charge of border management in the toolbox for cross-border coordination and crisis management. Sometimes, activating existing cross-border or multi-lateral committees was the most appropriate solution, while in most cases, creating new task forces gathering the most relevant stakeholders represented the most effective option.

In general, we can say that the institutional landscape for cross-border coordination was very diverse and directly depended on the border. Germany is an excellent example illustrating a great diversity of configurations: some bilateral committees were very active, with some task forces meeting twice a week. In some others, like those with Austria, the Federal level was not actively involved at all. Even in terms of referring institution, important differences were observed: with Czechia, cooperation was with the Ministry of Foreign Affairs; with France, committees were with the Region Grand Est and the Prefect; in the case of Poland, despite the significant territorial interdependence, the Polish government did not see any real need in cooperating with the Federal level.

1. Activating existing committees

Several cooperation forums and working communities exist in the EU. In most cases, the areas and partnerships covered by these agreements cover areas which are much broader than Euroregions and present the specificity of involving Member States. However, we will see that local committees led by EGTCs or cross-border cooperation bodies were also actively mobilised all along.

Figure 4.9: Map of cooperation forums and cross-border working communities



Source: MOT

Apart from the above-mentioned Benelux Union, Nordic Council and Baltic States Council, there are other examples of longstanding committees which allowed for better coordination between all the relevant stakeholders. The Upper Rhine Conference and the Greater Region are two good examples from Western Europe. Within the latter, the dialogue at the level of the Summit Executives was strengthened from the start of the crisis. The members of the Summit met on several occasions to agree on common positions in the management of the crisis. At the same time, at the technical level, various Corona Task Forces were set up, bringing together the health authorities and those responsible for cross-border cooperation. It should be noted that the national levels were also invited to these exchanges

(Ministry of Foreign Affairs of Luxembourg and German Ministry of the Interior).

As explained previously, between Spain and France, the Working Community of the Pyrenees became the resonance chamber for the concerns of the Presidents of the regions bordering the Pyrenees. A joint declaration was drafted in this framework to raise awareness on the danger which these closures represented for cross-border communities.

Between Norway and Sweden, the Svinesund committee sent a strong message in their September 2020 meeting, stating that their commitment to the region's development was as strong as ever (NordRegio 2020). The importance of anchoring the Svinesund committee politically among its municipal and regional representatives was exemplified in the letter sent to the Nordic co-operation ministers in both Sweden and Norway following the border closure in 2020.

These examples prove that para-diplomacy – region-to-region and municipality-to-municipality relations – can become powerful social and political tools for better coordination in cross-border areas.

2. The case of committees led by local cross-border cooperation bodies

As will be explained in the next chapter, which is dedicated to the role of cross-border bodies during the pandemic, in some cases, local and regional authorities turned to these entities and their respective committees by asking them to activate them for the purpose of crisis management.

- ES-PT: between Spain and Portugal, the mayors of the Miño River border organized themselves through the EGTC Río Minho.
- DE-FR: The Eurodistrict Strasbourg-Ortenau acted as connector and cross-border facilitator in local meetings. As reported in the 2020 study, the cross-border cooperation committee of the Aachen treaty was also activated in parallel, at a higher level, to jointly face the crisis.
- FI-SE: in the case of the border between Finland and Sweden, there are several overlapping arenas for cross-border coordination at different scales and with different mandates. Namely, the Tornedal Council, the Bothnian Arc Committee, and the North Calotte Council (NordRegio, 2020). These committees are to be added to bilateral agreements at municipal, regional, and national levels. The interlinkages and the interplay between these committees requires good coordination.
- DE-PL: Although there were no ad hoc committees formed for this purpose, the pandemic and the associated effects were discussed in the known or already existing committees. Moreover, the Spree-Neiße-Bober Euroregion

explained that they were in constant (informal) exchange with their state government.

- BE-NL: Sometimes task forces were established at the very local level: between Belgium and the Netherlands a task force was set up by the EGTC (European Grouping of Territorial Cooperation) Linieland van Waas en Hulst (cross-border cooperation between municipalities in the Flemish province of East-Flanders and the Dutch province of Zeeland) to solve border bottlenecks: the aim was to share knowledge with input from municipalities, employers, educational institutions, security services, etc. With these new insights, it was easier to respond more quickly to practical problems with regard to COVID-19 and it was clearer for municipalities to understand what was going on in terms of restrictions on the other side of the border.

3. *New ad hoc task forces*

In many cases, new coordination task forces were set up, outside the traditional or formal cooperation frameworks:

- DE: In Germany, cross-border committees including the national levels were established along the borders with Switzerland, France, Luxembourg, Belgium, the Netherlands and Czechia. Most of these met on a regular basis, some of them only in case of necessity. Their main function was the exchange of information on the pandemic situation and on upcoming rules (or changes). These committees included representatives of the Länder as well as of the national level (ministries of the interior, healthcare, foreign affairs).
- New "Corona" task forces between the Netherlands and Belgium were established very quickly when case numbers increased, by also involving the Land of NRW and local Euroregions. For instance, the different Euroregions gave input to the Task Force concerning cross border covid-related obstacles and were given the task of streamlining communication with the involved departments. Thus the department would receive one communication instead of one from every Euroregion. The meeting frequency fluctuated along with the epidemiological situation, with the stringency of Covid restrictions, and with the issues resulting from the varying stringency of Covid restrictions between the regions/countries participating in the task force. The border between NRW and the Netherlands stayed open during the entire pandemic.
- Estonia also set up two coordination groups: one with Finland and another with Latvia.
- Between Belgium and Luxembourg, a joint committee comprising representatives of the Ministries of Foreign Affairs, the Interior and the two embassies was set up in the spring of 2020 to exchange information and find pragmatic solutions to the various cases of border crossings.

- At the level of the BENELUX Union, a number of new coordination meetings were held every week or twice a week. As of 2022, they are held once a month and they now involve a larger number of regions outside Benelux (Hauts-de-France, NRW, Rheinland Pfalz), in order to be more effective. In 2016 a study had been carried out on possible cross-border threats, identifying 76 of them for the Benelux region. The Union now wishes to rework and update these plans. "Plans which were only 5-year-old turned out to be already old and no more effective" according to our interviewee from the Benelux secretariat.

E. The role and added value of cross-border cooperation bodies

The 2020 assignment by the MOT had identified six main categories of activities carried out by local cross-border cooperation bodies (EGTCs, Euroregions, Euro-districts, etc.) during the first wave of the pandemic. As part of this second study, stakeholders at local and national level and interviewees were asked to prioritise the type of activities which represented the strongest added value for the inhabitants during the whole pandemic.

Although it is impossible to proceed with a real charting of responses, it is clear that the biggest added value lay in the provision of information to cross-border inhabitants and commuters, especially in contexts where two or more different languages coexist in the same border region. The interviewee from Austria stressed the multiplier effect on information that these organisations can offer by providing it in various languages, in a short time.

Figure 4.10: Map of cross-border territories in Europe



Source: MOT

Most stakeholders also stressed the importance of activities related to raising awareness at national level of day-to-day problems and difficulties (lobbying and advocacy). For instance, the committee of the Pomerania Euroregion (DE-PL) made an appeal to the Polish government to take into account the cross-border issue. Subsequently they made further joint appeals with all Euroregions on the border.

Another major added value was related to their capacity in supporting local and regional stakeholders in the different crisis management committees which came into being during the pandemic. As an example, the Saarland Presidency of the

Greater Region (cross-border body) set up a Corona Task Force in April 2020 in order to improve consultation and the exchange of information within the Greater Region. This task force brought together representatives of various administrations from all sides of the Greater Region.

Conversely, some interviewees mentioned the difficulties encountered by EGTCs and other bodies in solving day-to-day problems at the very local level. In these cases, direct contact between mayors, including phone calls, turned out to be more effective.

Keeping the cooperation spirit alive and building trust in a difficult time of border restrictions was also an essential activity, which will have strengthened the resilience of these border regions in restarting cross-border activities. Since connections had been disrupted, maintaining relationships was essential. The liveliest EGTCs managed to keep their cross-border ties while some other had to reconstruct cross-border trust and cooperation spirit almost from scratch. Some of these CB cooperation bodies also launched calls for initiatives aimed at supporting people-to-people and trust-building projects during the pandemic.

Finally, a lower number of stakeholders mentioned more practical actions, such as carrying out surveys to understand the main obstacles and the impact of these measures on local inhabitants, or drafting cross-border public policy proposals for recovery plans and future border management. For instance, the Benelux interviewees mentioned crisis management plans which are currently being prepared by Euroregions in the area.

The case of "EUROCITIZENS' CARDS"

As explained in the 2020 study by the MOT, with the example of the Association of the Polish Euroregions, networks of cross-border cooperation bodies have often turned out very useful to strengthen advocacy activities or to come up with innovative solutions.

This is also the case for all the Eurocities on the Spanish-Portuguese border. Thanks to the Iberian Network of Cross-border Cooperation Entities (RIET), these Eurocities shared experiences and were able to invent more complete solutions together. One of these is a digital card like the one in the Eurociudad del Guadiana⁴⁰, which will allow access to public services and propose a sort of cross-border 'passport' to facilitate border crossing in times of crisis.

The offer of public and private resources is being mapped and organised in service guides that include the whole range of the Eurocity's territory (Ayamonte, Castro Marim and Vila Real de Santo Antonio): from sports facilities, libraries, health centres, shopping and leisure centres, transport, etc. The card is intended to facilitate access to these services, and to support cultural events.

⁴⁰ https://eltrapezio.eu/es/portugal/una-tarjeta-de-eurociudadano-permitira-acceder-a-servicios-publicos-a-ambos-lados-del-guadiana_11371.html

In a previous version, the EuroCitizen card was physical and applied to discounts in leisure establishments, as well as in a large proportion of the health services available in the three municipalities. The updated version of the card will be digital and linked to a mobile application, which will also be able to offer some of the services to non-residents or people in transit.

Most importantly, this new card is intended to facilitate cross-border mobility in the case of new border restrictions, in order to develop solutions to common obstacles faced by the population of the three municipalities.

Many also served as examples of solidarity: around Hungary, some EGTCs collected masks and tests (Tisza EGTC) and distributed them on the other side of the border.

F. The cross-border dimension of National Recovery and Resilience Plans (NRRPs)

The Recovery and Resilience Facility (RRF) is the largest component of Next Generation EU (NGEU), the European Union's landmark instrument for recovery from the coronavirus pandemic. At the beginning of 2021, EU countries were all asked to submit 'National Recovery and Resilience Plans' that described the reforms and public investment projects they plan to implement with the support of the RRF.

In this framework, Member States were also encouraged to include investments on cross-border projects and multi-country projects: "There is no obligation to include cross-border projects. Nevertheless, these projects reflect common concerns and shared priorities of (a number of) Member States and are, therefore, aligned with the objective of promoting further integration and cooperation within the EU.⁴¹"

An analysis by the Economic Governance Support Unit (EGOV) of the Directorate-General for Internal Policies, which was published in December 2021, has looked into the share of projects with a cross-border or multi-national dimension within NRRPs.

Important methodological bias: most of the projects presented as "cross-border" in the framework of this analysis are not cross-border in the "territorial" sense of the term, insofar as they are often transnational R&D alliances. The main examples of cross-border territorial projects, concerning border regions, are listed below and concern transport infrastructures (major corridors) and digital infrastructures.

⁴¹ In-depth analysis for the European Parliament: "Recovery and Resilience Plans - Thematic overview on cross-border projects", Economic Governance Support Unit (EGOV), Directorate-General for Internal Policies, PE 689.472 - December 2021 [https://www.europarl.europa.eu/Reg-Data/etudes/IDAN/2021/689472/IPOL_IDA\(2021\)689472_EN.pdf](https://www.europarl.europa.eu/Reg-Data/etudes/IDAN/2021/689472/IPOL_IDA(2021)689472_EN.pdf)

1. Non-exhaustive list of territorial projects included in NRRPs with a clear cross-border dimension

Table 4.2: Non-exhaustive list of territorial projects included in NRRPs with a clear cross-border dimension

TRANSPORT INFRA-STRUCTURE	DIGITAL TRANSITION	ENERGY INFRASTRUC-TURE
IT: Italy included the high-speed line Verona-Brennero in the North of the country connecting to Austria	GR: Greece: the '5G corridors' investment will support the cross-border corridor Thessaloniki-Sofia-Belgrade	CY: Cyprus included two cross-border projects in its plan for an electricity interconnector and submarine cables for connectivity. Both projects would have a cross-border element with Greece.
EE-LV-LT: (Baltic States): Rail Baltic, a cross border project connecting the three Baltic capitals and countries with Poland and the rest of the EU	EE-LV-LT-PL (Baltic States and Poland) the 'Via Baltica - North' initiative aims at developing an experimental 5G cross-border corridor where self-driving vehicles can be tested.	SK: Increasing the electricity transmission capacity in the Slovakia-Hungary profile: strengthening of electricity connection in the profile between Slovakia and Hungary shall allow for an increase in the capacity in the Slovak transmission system and facilitate connection of more renewable sources into the electricity grid.
ES: With regard to rail transport, and in line with the objectives of decarbonisation and improving the competitiveness of their economies, France and Spain will improve cross-border connections by promoting the planned actions.	EE-LV-LT: (Baltic States): Development of joint data exchange network of X-ray scanners used by customs services of Baltic States (BAXE project)	ES: further development of electricity interconnections, which will strengthen the integration and greening of the respective energy matrices and accelerate the carbon reduction of the two economies. Electricity interconnections between Spain and France are essential for the proper functioning of high-voltage networks within the European Union.

<p>AT: In Austria, from 2021 to 2026, more than EUR 1 billion will be spent on rail, in particular on upgrading stations and stops and on safety features at railway crossings - e.g., Vorarlberg: Expansion of cross-border rail transport offer (Lake Constance line S7 (Romanshorn in Switzerland – Bregenz – Lindau in Germany))⁴²</p>	<p>ES: Spain has planned to develop its 5G network along the cross-border sections with Portugal and France.</p>	
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In general terms, it should be noted that interviewees at both national and local level were able to provide an extremely limited amount of cross-border territorial projects. Moreover, the list presented above is more concerned with transnational networks than local CB projects.

⁴² https://www.bundeskanzleramt.gv.at/agenda/europapolitik/europaeisches_semester.html

2. The specific case of the Spain-Portugal Common Cross-Border Development Strategy

The most emblematic example of coordination on cross-border projects and investments mentioned in a National Recovery and Resilience Plan is the example of the “Common Cross-Border Development Strategy” between Spain and Portugal.

Figure 4.11: Cover of the Recovery, Transformation and Resilience Plan of Spain



Source: Government of Spain

A Spain-Portugal Common Cross-Border Development Strategy was approved at the bilateral Guarda Summit in 2020. It identifies a series of joint projects to combat depopulation and promote territorial cohesion in cross-border areas. Within this strategy, some of the projects⁴³ that are being implemented refer to:

- The Cross-Border Workers' Statute
- Mobility for minors in Eurocities and Euroregions
- Improving coordination of 112 services at the border
- Connectivity in the cross-border area⁴⁴
- Sustainable tourism with the Border Fortresses initiative

⁴³ PLAN DE RECUPERACIÓN, TRANSFORMACIÓN Y RESILIENCIA, Spain , (page 141)
https://www.lamoncloa.gob.es/temas/fondos-recuperacion/Documents/30042021-Plan_Recuperacion_%20Transformacion_%20Resiliencia.pdf

⁴⁴ Examples of cross-border infrastructure: the first one between Sanlúcar del Guadiana (ES) and Alcoutim (PT); The second being the new international bridge over the Sever river, between Cedillo (ES) and Nisa (PT).

- Cross-border cultural projects
- Border education and training
- Sustainable and inclusive recovery of depopulated villages

Figure 4.12: Cover of the Recovery and Resilience Plan of Portugal



Source: Government of Portugal

On this basis, both countries have established a working group to link up mechanisms in their respective Recovery Plans to foster business collaboration and to deploy joint projects, among others, in the following areas:

- Green hydrogen
- Ecosystem protection and resilience
- Water and biodiversity
- Electric vehicle value chain
- 5G networks
- Iberian digital connectivity hub
- Digital entrepreneurship

G. Summary: the role of all levels of government and key stakeholders during the pandemic

First of all, the smaller and the more centralised the state, the more prominent the role played by national governments in border management. **Intergovernmental forums** such as the Benelux Union, the Nordic Council and the Baltic Council of

Ministers also allowed for further coordination and for a proper exchange of information at a multi-national level.

Secondly, new 'crisis management **task forces**' at national and regional level and rather **informal exchanges** between local authorities and other key stakeholders at the local level were the most common forms of coordination for tackling border issues.

CB coordination has not systematically improved in every border area in the consecutive waves of the pandemic. However, despite the lack of consideration of CB interdependencies by some MS, we can generally witness a real learning process in crisis management along most of the EU's borders.

Existing local or regional CB committees were activated in most cases: if their impact on softening national level restrictions was rather low, they were useful in the implementation of common information tools or in carrying out advocacy activities for raising awareness at the national level of the issues identified locally related to border restrictions.

The biggest added value perceived by **CB cooperation bodies** in their **activities** was related to **information** provision and **lobbying** activities targeting national authorities. However, many stakeholders also mentioned their ability to keep the cooperation spirit alive in a difficult time, while building cross-border trust between institutions and citizens.

Finally, only a limited share of **National Recovery and Resilience Plans** included a cross-border dimension for some projects. Most of these cross-border projects involve large digital, transport and energy infrastructure investments. Spain and Portugal and their strategy for the whole cross-border region are the most advanced and integrated example of coordination on joint investments as part of a recovery plan.

Please refer to the sub-chapter "Recommendations within multi-level governance", within Chapter 5 to discover the study's recommendations regarding the role of all levels of government in the management of border-related issues.

V. CHAPTER 5:

CONCLUSIONS AND RECOMMENDATIONS, IN PARTICULAR CONCERNING THE GOVERNANCE OF CROSS-BORDER TERRITORIES

Let us now sum up lessons from the crisis, explored above, and present some recommendations.

We will first sum up what the COVID-19 crisis has revealed of the reality of persons' lives within cross-border living areas, and the damage resulting from lack of coordination between states in the management of borders, when they consider them as lines only⁴⁵: for each of the 6 dimensions of CB integration, and in a systemic approach (part I).

Then we will present how CB living areas can better integrate in the future, drawing lessons from the crisis, if states agree to exercise their sovereignty together, at the local level of CB regions, and with the support of a European, multilevel governance (part II).

A. Lessons of the effects of COVID-19 related measures on cross-border regions and their inhabitants

1. Lessons for each of the 6 dimensions of CB integration

The return of border controls due to the public health crisis has been a revealing parenthesis, creating a counterfactual of cross-border cooperation, and thus making cross-border interdependencies manifest. Let us first draw some lessons for each of the 6 dimensions of persons' lives within cross-border living areas.

a) Economic sphere (market and public economy):

As regards the economic sphere, each national territory encloses a domestic market, regulated by the state, and subject to taxation allowing to fund public policies. An open border is a resource for the market. Domestic productions are in competition with each other across the border; demographic, price and tax differentials create gradients generating cross-border flows of people, goods, capital and services, contributing to CB socio-economic integration. Productive individuals (such as cross-border workers, or more broadly, people who are 'multi-situated' between several national territories) are inserted into CB territorial systems, not as citizens,

⁴⁵ The so-called „Westphalian“ paradigm

but as adjustment variables of border flexibility⁴⁶. Moreover, if this socio-economic integration is not complemented by institutional integration, the absence of common management of the border by the two states concerned creates spill-over effects for local authorities, companies and inhabitants remaining outside the cross-border game⁴⁷.

During the crisis, free movement of goods has proved to be better acknowledged – through measures such as “green lanes” – than free movement of people, which states severely interrupted in March 2020. Only later did states realise that there were “essential workers”, not only in a domestic context, but also across borders, for whom it was necessary to keep the borders open.

The crisis has drawn attention to another topic, which is the way CB work is subject to taxation and social security costs. Everywhere, teleworking, when possible, has contributed to maintaining economic activity; it has also been the case for CB workers, which has led states to adopt provisional bilateral agreements maintaining usual taxation rules, even if some thresholds were no longer respected. Many workers and firms now wish to maintain teleworking at a higher level than before the crisis. It can also be a win-win game for territories, notably by reducing congestion linked with the use of cars. But pre-existing bilateral agreements, or their absence, are challenged⁴⁸ (see Chapter 3 about the new teleworking practices identified among the Your Europe Advice enquiries). The crisis has revealed inconsistencies resulting from non-harmonised State rules on taxation – a field where competence lies at national and not European level, whereas social security is already harmonised through EU regulation.

A third issue is linked with recovery plans. As the crisis has particularly hit border regions, and revealed the importance of developing and maintaining cross-border services, many voices have asked for CB projects to be prioritised within recovery plans. Unfortunately, our survey has revealed only little concretisation of such wishes (see task 4).

In short, the crisis has revealed gaps in the achievement of CB integration in the economic sphere. Schengen is one of the 'jewels' of the EU, but the crisis has shown the extent to which the single market is incomplete. Moreover, border regions' inhabitants are acknowledged as economic agents, but not as CB citizens.

In the future, a further stage of CB cooperation should consist of a complete,

⁴⁶ Amilhat Szary, 2020

⁴⁷ See Lambertz, 2019. <https://rm.coe.int/fair-distribution-of-taxes-in-transfrontier-areas-potential-conflicts-/168097f09d>

Only a few bilateral agreements have so far defined rules for sharing levied taxes between the 2 States concerned. Moreover, CB workers, when they pay their income tax at the place of work – which is recommended by OECD framework (to avoid double taxation), – are denied their CB citizenship, as they do not vote for elections in the country they work in.

⁴⁸ See MOT, 2021

win-win integration, based on co-development: not only a mature CB market (border fully open, 4 freedoms) but also a CB common approach for economic policies serving the CB regions and their inhabitants.

b) Functional sphere (public services)

In the functional sphere, each national territory is a bundle of domestic public services. Border lines, where public services meet, with little or no interoperability, act as more or less porous filters. EU policies have been developed in sectoral fields (functional approach), depending on the States' will to delegate these policies to the EU (early in a field like transport, later in the field of health for instance).

In CB regions, the integration of cross-border public services (CPS) should tend to be as complete as in a national territory⁴⁹. Greater Geneva with the Leman Express public transport system is a good example. But too often, public services (for mobility, energy, health, environment, risk prevention, employment, education, innovation, etc.) stop at the border.

This has been confirmed by the crisis, revealing the cross-border public services' weaknesses: they were the first to be interrupted. Some are difficult to reopen. In some cases, this might even have led to interruption of cross-border work (see case reported in chapter 3 about issues regarding cross-border mobility).

Gaps also concern the fields of investment and daily operation. While CB public services integration should be seen as favouring economies of scale and of agglomeration, this potential remains largely untapped. Moreover, states don't seem to be respecting their commitments, made at the height of the crisis, to implement some "missing links" rail projects⁵⁰. In a context of renewed attention on administrative burden, cross-border integration is often seen as an overburden, not an asset⁵¹.

In the future, CB regions should define a common approach to transition⁵², through cross-border public investments and shared services, jointly managed locally with the support of the two or more states concerned, forming a fully integrated system. CPS should be co-produced by inhabitants, simultaneously CB economic agents, users and citizens - patients and physicians⁵³.

⁴⁹ See European Commission 2021 (1), European Committee of the Regions 2021

⁵⁰ <http://www.espaces-transfrontaliers.org/actualites/news/news/show/retour-sur-la-conference-liaisons-ferroviaires-transfrontalieres-des-10-et-11-juin/>

⁵¹ CESCO, 2021; Beck, 2021

⁵² See the Territorial Agenda Pilot Action around "Luxembourg in Transition": <https://territorialagenda.eu/pilot-actions/cross-border-spatial-planning/>

⁵³ CESCO, 2021

c) Institutional sphere (public policies under democratic control)

The institutional sphere is naturally embedded within the framework of the nation state, founded on national democracy – limited to national citizens, where the state finds its legitimacy through ensuring security⁵⁴, solidarity, and providing public goods and services via public policies⁵⁵.

In the European integration context, states have chosen to build together a single market (economic sphere) and develop sectoral policies (functional sphere), under the control of an emerging democratic system (institutional sphere), where national citizenship also provides European citizenship – one of its concrete proofs being free movement of people.

But by drastically limiting mobility across borders, the crisis has revealed the lack of effective recognition of such a European citizenship – not to mention the weakness of cross-border democracy. The border suddenly appeared as a double skin separating two bodies, being again the place of possible conflicts. The border line forces the person to position themselves either inside or outside⁵⁶. It is the "undemocratic condition of democracy"⁵⁷.

In the future, CB governance bodies should become more like CB governments, under cross-border democratic control (e.g., CB workers could vote in the country where they pay taxes). Full competences (not only missions) should be given to CB organisations such as EGTCs. Full mandates, with clear objectives and responsibilities to develop CB integration should be given to CB bodies, and to local and state actors of CB cooperation (such as Prefects in France). The border zone should become a place for transnational democracy, involving cross-border, sometimes bi-national, European citizens.

When dealing with European and cross-border integration, the economic, functional and institutional "hard" spheres, addressing individuals as economic agents, users of public policies, or citizens – holders of rights – are generally put forward, because EU institutions have their main mandate in these fields. But 3 other spheres have appeared relevant during the crisis: those relative to information, culture and interpersonal relations.

d) Information sphere

Within a national territory, the sphere of information is regulated by domestic institutions (statistics, social sciences, education, media). States – particularly

⁵⁴ See classical analyses of Hobbes (Leviathan) and Weber (monopoly of legitimate violence)

⁵⁵ Peyrony, 2014

⁵⁶ Amilhat Szary, 2020

⁵⁷ Balibar, 2009

where they are monolingual – exercise a “monopoly of evidence”⁵⁸, of the construction of reality, via the statistical apparatus, the production of social sciences, education and media. Hence each border is a place of contradiction between states⁵⁹.

In the European context, cross-border and European integration are supposed to overcome this national prism⁶⁰. But the crisis has been a crash test. In March 2020, suddenly information was missing everywhere, about what was happening, risks, possible solutions, the right to proceed or not with the actions of daily life, such as usual activities or mobility. Paradoxically, a lot of information circulated through domestic and global media, and social networks, but it was often inappropriate, and it fostered chaos rather than coherence. Everybody felt they were an expert, while institutions’ legitimacy was severely challenged.

Gradually, everybody obtained information concerning their rights and obligations within the national context, and about situations in other countries – including on the other side of the world, but always through a national prism⁶¹, considering countries as monads, territorial boxes that can be opened or closed. And yet, suddenly it was impossible, not only to cross the border, but also to understand what was happening on the other side of it; the sanitary situation, the way decisions were taken, the possibility or not, and the conditions, of crossing the border.

The lack of available information about borders (not only data, but also appropriate concepts); limited evidence, and the fact that this evidence is far from being shared by public opinion, clearly require learning to think the border (“border mainstreaming”⁶²), CB territorial monitoring⁶³, scientific research and training. The way information is used in the public regulation decision process should also be considered. The best effect of the European Commission guidelines on border related measures has been “informative”, as a way to influence/regulate national policies (See chapter 1).

A positive externality⁶⁴ of the crisis has been the increased visibility of borders, and awareness raising about what happens there. While borders are generally apprehended through many biases and preconceptions, a number of unanswered questions concerning them became suddenly burning, and now require a better, common understanding.

What is an open/closed border? During the crisis, the media have propagated a

⁵⁸ Peyrony, 2018

⁵⁹ "Truth below the Pyrenees, error beyond", as Pascal said, to express the arbitrariness of the border between France and Spain, just designed through the Pyrénées Treaty in 1659.

⁶⁰ through "linguistic hospitality" (Ricoeur); translation allowing to correct the deceptive nature of any language (Balibar), and becoming the language of Europe (Umberto Eco).

⁶¹ Coined by Faludi 2018 as « territorialism »

⁶² Tetyana and al., 2021

⁶³ CESCO, 2021

⁶⁴ Klatt, 2020. CESCO, 2021

simplistic vision of borders, generating confusion between different sorts of borders. However, the closure of an intercontinental border, e.g. between a European country and China, correlated with the suspension of international flights, has little to do with European terrestrial internal borders, which have been subject to a wide range of measures, from complete closure of certain border points, to fully open borders. Moreover, borders are always subject to a dual regime from country A to B and B to A, that can be asymmetric, and complicate the lives of border inhabitants, travelling from and returning to their homes across the border⁶⁵.

Are controls on the border line the best way to filter secondary movements of migrants, to manage security or pandemics? Or should European cooperation between neighbouring states and at EU level be preferred⁶⁶?

What are the CB interactions, flows, interdependencies across the border, and how should they be regulated? They are generally not well known, as the issue of mobility shows: border inhabitants' movements – just as for anyone – are generally not limited to travel to work, and can include a stop for buying fuel, food, or dropping a child off at school, sometimes on the other side of the border.

In what CB functional areas do people live? Is it possible to objectively define "CB regions", local CB living areas ("bassins de vie transfrontaliers")? What does "local" mean? In some cases – monocentric CB functional areas like Greater Geneva – it seems easy to define such areas, more or less corresponding to the CB public transport system (in that case, the "Léman Express"). But in a majority of cases, CB mobility takes place within a strip along the border. How to define it? One option, often used by regulations of border movement, is to use distance criteria; a more sophisticated approach based on accessibility criteria⁶⁷, taking time into account, should be preferred – for example, the 24 hour rule (according to which, a round trip is "local", when it is performed in 24 hours maximum; or when a maximum of 3 hours are spent in transport per day...)⁶⁸.

During the crisis, states have sometimes prohibited, in domestic as well as cross border contexts, "non essential" trip purposes. But on what grounds? On which criteria should such norms be based? A specific question concerns the "legitimacy" of CB movements in the case of a crisis, as the examples found in the Your Europe Advice entries show: which ones should be acknowledged as requiring protection? The definition of a "CB worker", is presently based on a criterion of minimum weekly travel. Should a worker commuting each weekend between two European, possibly remote, cities, be considered as a CB worker whose mobility should be protected in times of crisis? Is it possible and desirable to define a local CB mobility,

⁶⁵ Wassenberg, 2020

⁶⁶ "Paradox of open border: The more a border is open, the more secure", see Leuprecht, Brunet-Jailly, Hataley & Legrand, 2021

⁶⁷ JRC

⁶⁸ This recommendation, based on experience, is confirmed by theoretical considerations, see Levy, Lussault, 2013, defining « local » as the space allowing daily activities (work, essential services ...), when « regional » is the space offering « rare » functions (airports, universities...)

which would be considered legitimate, as opposed to a non-local mobility? Should CB local mobility be protected as more sustainable/cohesive than more long-distance mobility? Does it make sense, given that there may be a continuum of cases between “proximity” and Europe-wide range, especially in the context of the extension of teleworking? Or should the EU single market prevail, and a fair EU eco-tax regulate mobility?

Should a functional approach (based on distance, time) be preferred? Or a more institutional one, based on the status of a CB worker or resident, living in the perimeter of an existing CB governance structure, such as Eurodistricts, and EGTCs? Would the consideration of NUTS 3 regions on the border be a sound compromise?

A conceptual change is needed: a border should be considered as a zone, not only a line⁶⁹; the future will require progress on CB data on flows, interdependencies, FUAs, but also common understanding of the border geography (concepts⁷⁰, not only data); defining “CB regions”⁷¹, and “bassins de vie transfrontaliers”; the need to identify various scales⁷²: local, regional, macro regional; and new common norms and visions about borders, shared by their inhabitants⁷³ and by local, national and EU institutions, allowing the building of sound public policies for CB regions.

e) Cultural sphere

Each national territory is a community united by national narratives and visions, equipped with a common heritage and history⁷⁴, and generally a common language. Borders are places where different cultures and languages clash, or on the contrary where a common culture and language exist across the border. Cooperation projects have been developed for decades with the support of the European project (free movement, Interreg) or even before, thanks to regional cultures, often pre-existing to states in their present form. All this has contributed to develop a culture of cross-border respect, mutual trust and cohesion.

In each country, Covid has been a crash test of national cohesion (distrust vis à vis governmental measures, vaccination), but common references provided resources in the context of uncertainty – trust and information reinforcing each other. On borders, the Covid crisis and resulting measures have reactivated mental borders and challenged trust, between states (the “capitals, between neighbours and at EU level), and between local populations across each border. Not only different understandings (see previous point about information), but also different

⁶⁹ La Pradelle, see Perrier, 2019

⁷⁰ Rougemont, 1977; Latour, 2018

⁷¹ As proposed by the draft Schengen Code regulation, EC, 2021 (2)

⁷² Peyrony et al., 2021

⁷³ Latour, 2018

⁷⁴ Thiesse, 1999

narratives and visions have clashed at the border⁷⁵ – as it has been the case on the DE-FR border for instance (see below, and see feedback provided by the chapter 3 analysis).

In the future, mutual trust should be (re)built from the bottom up⁷⁶, by developing a better knowledge of the past, and a vision of the common future, allowing the emergence of a CB society, which are preconditions for CB integration and its maintenance in times of crisis.

f) Interpersonal sphere (interlinked persons)

As already explained, public policies in the field of CB or European integration generally consider individuals: economic agents (CB workers), holders of rights, national citizens (with their identity card)⁷⁷. But persons are not only individuals, they are also interlinked within couples, families and communities. The life of couples and families is generally regulated within domestic framework (civil status...).

Last but not least, the interpersonal sphere has been put upfront by the crisis. Restrictions of mobility, at least in the first phase of the pandemic, have been focused on individual rights (attached to national identity, or status linked to work). They have severely impacted couples or families living across the border, whose reality has been denied by uncoordinated domestic measures⁷⁸.

It should remind us that the ultimate goal of public action is to guarantee the rights of persons (beyond their economic or national citizen status), also in the border context. This has consequences for the daily management of borders, which should have more consideration for couples, families, communities. The analysis of the Your Europe Advice enquiries reveals the substantial proportion of questions related to non-EU citizens, or persons resident in other European countries with long-distance family ties, impacted by the border-related measures taken during the crisis.

Another aspect revealed by the crisis concerns public action in the CB context. ISIG classification of obstacles to CB integration has identified, beyond obvious obstacles related to economy, institutions or culture, a residual obstacle they have named “lack of propensity to cooperate”. Conversely, in March 2020, after the initial border closures unilaterally decided by states, persons – and not institutions – were the first to react beyond borders, and relaunched cooperation between institutions.

Since then, several reports have underlined the role of informal, interpersonal links

⁷⁵ Impact on discourse on borders; re-territorialisation, see CESCOI, 2021.

⁷⁶ CESCOI, 2021

⁷⁷ Rapport Lamassoure, 2008 <https://www.vie-publique.fr/rapport/29870-le-citoyen-et-lapplication-du-droit-communautaire>

⁷⁸ Wassenberg, 2020

across the border, going beyond professional obligations (resulting from existing domestic or CB routines), as resources for public action. Such informal networks of persons already play an important role in current domestic systems; they also exist in CB systems, but require strengthening⁷⁹.

In the future, public policies should not consider only individuals, but also persons living in couples/families, sometimes separated by the border. Family rights should be better acknowledged in a European and cross-border perspective. And interpersonal links should also be considered as key for the management of borders.

B. Lessons in a systemic approach

Beyond these lessons for the 6 dimensions of persons' lives within cross-border living areas, let us now draw lessons, about the systems these 6 dimensions form in each country, and the way they have clashed on each border.

Crises at the borders have revealed contradictions between CB reality and inadequate CB or domestic institutions. All regions suffered from the public health crisis, but border regions experienced a double penalty, with border closures in addition to other containment measures. The crisis revealed how public policies, suddenly reduced to their domestic, vertical and bureaucratic routines, have struggled to take into account the cross-border lives of persons and their complex chains of movement. Of course, borders are and will remain lines separating the territories of sovereign states (each with its own specific legislation, political and administrative culture, social protection systems, etc.), but borders are also zones⁸⁰.

Borders, when only apprehended as lines between two states, deprive actors of the necessary scope for their daily activity, and divide a dense milieu of economic and social relations. Borders are also functional areas, in which the people living there cross the border-line regularly. Public services should cross state borders, which requires the signing of bilateral agreements. The administrative regime of cross-border cooperation should consist of erasing the harshness of the border in this transition zone.

Such an approach is supposed to be facilitated by European integration: freedom of movement (Maastricht Treaty, 1992), and the objective of territorial cohesion recognising 'cross-border regions' (Lisbon Treaty, 2007; Article 174 TFEU)⁸¹, with Interreg as a catalyst. This crisis, and the previous ones since 2015, whether migratory or security-related, have brought to light obstacles already well known to

⁷⁹ Beck, 2021

⁸⁰ as La Pradelle had already demonstrated in his 1928 thesis (Perrier, 2019). He promotes an international border regime in which sovereign borders are transformed into functional borders.

⁸¹ Peyrony, 2014

cross-border actors.

The 6 spheres we have just explored mainly take root within each nation state, where they form a system of checks and balances, establishing national cohesion⁸². Promoting cross-border or European integration, which means building a new system at another level⁸³, at first requires understanding and questioning national cohesion.

Despite the existence of European rules (e.g., the Schengen Code - even if several states had notified the Commission of movement restrictions, and extended them over time, already before 2020), border management was suddenly renationalised when the Covid crisis erupted; many borders were almost closed, and “methodological nationalism” prevailed⁸⁴. It is only later that engagement of persons and local/regional/CB actors allowed borders to reopen and cooperation to restart.

At the beginning of the crisis, the “national gravitational pull”⁸⁵ played out in full, with all its dimensions: material (such as economic, functional, institutional), but also immaterial (informed, cultural, interpersonal) – in each country with its specific cognitive framework, a combination of these dimensions.

The crisis has been a learning machine, in each country, as well as on each border and at the European level. In each country, management of the public health crisis (health policy, but also constraints on mobility, including management of borders) has required the same typology of trade-offs between the 6 dimensions; but these trade-offs have not been the same in each countries.

- 1st trade off: Human cost, security (in terms of functional sanitary criteria, i.e. minimising death numbers) vs economy, freedom of movement (also considering human cost in the longer term)
- 2nd trade off: Efficiency (in functional or economic (utilitarian) terms) vs equality or equity (in institutional terms – protection of rights – and interpersonal terms – consideration of family links). This has been particularly tangible in the case of border management. With a limited staff able to carry out border controls, should a utilitarian approach prevail (concentrating staff on a limited number of crossing points, which means closing others, and hindering the daily life of a limited number of persons in small CB living areas), or an approach respecting such areas? Should hard, uniform measures or adaptation to personal cases, prevail? This trade-off has also a territorial dimension; at what territorial scale should functional adaptation

⁸² The cohesion of national societies is so strong that it can itself be a cause of violence. The problem is not that we don't like our neighbours on the other side of the border, but that our attention is focused on our fellow national citizens (Dumouchel, 2011).

⁸³ Beck, 2021, CB sub-system

⁸⁴ CESCO, 2021

⁸⁵ <https://futurium.ec.europa.eu/en/border-focal-point-network/news/mental-border-obstacles-experiences-obstacles-and-possibilities-when-working-across-border-between>

to different situations be combined with equality of treatment: at national, regional scale? and what for a border region concerned by 2 states?

- 3rd trade off: Sophistication of measures (functional sphere) vs their understandability by the population (information sphere)

Moreover, countries have different degrees of decentralisation, from very low (in small countries) to extensive (in federal countries), which means that trade-offs have been appreciated at different levels. At what scale should equality /equity be appreciated: regional, national, cross border, European...?

The feeling that rules were sometimes inequitable has been a domestic problem (cf. the sophistication of measures for progressive easing of lockdown measures taken by France: movement was permitted within a radius of 1 km, 10 km, then 30 km from home, but how did those rules apply to persons living at the border between 2 regions?). This feeling was multiplied by comparisons made with the other side of the border, or with other borders (e.g., Germany's western borders remaining open with Netherlands and Belgium, but not with France).

The European typology of states is incredibly diverse: small or big; centralised or not; involved in bilateral or regional cooperation (like Benelux, Nordic Council...) or not.

Diverse political, socio-economic, cultural backgrounds, plus path-dependency on different Covid infection trajectories, led to different domestic trade-offs and policy responses, contradicting, and unavoidably clashing, on borders, all the more that borders are themselves diverse (strong or weak CB flows and integration, geographical nature of the border...).

Let us take some examples.

Germany is a large federal country, characterised by a culture of respect of rules; search of compromise and consensus; subsidiarity; multi-level responsibility of persons and institutions such as Länder – the latter having played an important role in managing the crisis. The independent Robert Koch Institute has had a major role in monitoring the public health crisis: the combination of the data it produces, and rules (such as thresholds accepted by social consensus), have automatically⁸⁶ generated some decisions (lockdown, restrictions on mobility...).

German approaches towards borders have been differentiated at each border, taking into account the rural border with DK, and the urban border with NL differently;

⁸⁶ like a central bank for money and interest rates - in an approach coined as "ordo-liberalism", or – with a critical tune - as „governance by numbers “; see Governance by Numbers: The Making of a Legal Model of Allegiance, Alain Supiot, 2017

and have stuck to objective evolutions throughout the crisis.

France is a large unitary country (even if decentralised), characterised by political /functional deals decided mainly at national level. Political decision (even if informed by facts that are objective and public) is preponderant. Throughout the crisis, the national government, facing strong social contestation (e.g., about vaccines), has tried to define rules (successive limitations of mobility) that can combine efficiency and social acceptance, and apply to all regions. As for border regions, decisions have also been national, like with the decree acknowledging “basins de vie transfrontaliers” (see below), vs specific situations at each border.

Countries of Benelux, Northern or Central Europe⁸⁷, whether centralized or not, are relatively small countries, where the crisis management has been centralised. When the whole territory of a country is close to a border, there is no need to decentralise crisis border management - even if in a federal country like Austria, national decisions have been taken in concertation with Länder (ÖROK).

Such different approaches fatally clashed on borders. The Nordic community⁸⁸ usually promotes its model of regional integration based on trust between states and populations as a major asset (“the Nordic gold”). But in a context of uncertainty, fear, and contrasting approaches taken by states, due to different traditions (e.g., liberal approach in Sweden, contrasting to its neighbours’ approaches), the model has been damaged by the crisis, and nationalism has reappeared. Moreover, governments seemed to be “seeing borders for the first time”.

Let us develop the case of the border between France and Germany⁸⁹. At the beginning of the crisis in March 2020, France was clearly more impacted than Germany, for contingent reasons, but this created distrust from the German side. Moreover, the explicit, organised dialogue (even if difficult) between Bund and Länder, on the German side, contrasted with unclear roles and internal competition between state and regions, on the French side.

On another note, it was difficult for French authorities to understand the sometimes contradictory approaches taken by the Bund and the 3 Länder on the French border, with their different political coalitions leading to contrasted approaches of the crisis⁹⁰.

This crisis has led to considerations about the advantages and disadvantages of federal vs unitary systems. In years to come, evaluations of public policies throughout the crisis, in Europe and elsewhere, will certainly bring interesting lessons. Let us concentrate here on general lessons about border management in the

⁸⁷ CESC, 2021

⁸⁸ Nordregio, 2021

⁸⁹ Tetyana, Köbele-Ennaji, Ross, Wolfart, 2021; Coatleven, Hublet, Rospars, 2021

⁹⁰ Tetyana and al., 2021

context of this crisis, for future crises and normal times.

The crisis has been characterised by a general lack of understanding of what was happening, in the domestic context, and all the more in the CB context, for cumulative reasons: novelty, intensity and infectiousness of the virus; global context of dissemination; the ever-changing nature of the pandemic – all these factors creating much uncertainty⁹¹. As regards the management of borders specifically, in the European context of regional integration, this uncertainty was multiplied by the diversity of national approaches, that should have been, but were not, coordinated on each border.

Rather than new obstacles, it is their exacerbation, their much larger visibility, which characterises the crisis: it has been a crash-test, raising awareness of already existing problems.

Different lessons can be drawn.

Persons living in CB areas have been impacted

- when they have been struck with prohibitions or fines in the neighbouring country, while they felt they were acting reasonably (e.g., buying fuel on their way back to work)
- when border management was processed by civil servants unaware of regional border contexts – e.g., CH federal police, not speaking French-local language, in Greater Geneva
- when measures did not seem to be “proportionate” and clearly motivated, for instance borders closed for unclear reasons, not taking account of effects on small local CB communities (ES-FR border in the Pyrenees).

Even if most civil servants in charge of border management have probably done their best, when enforcing rules, to make accommodations for the particular situations of persons having to cross the border, some have experienced a sort of ambivalence, violence, injustice of the border.

In the future, there is a need

- to take into account and respect persons in their CB living areas (right to live at 360°)
- to build a feeling of justice: people can accept constraints, provided that they believe them to be fair, and humane

⁹¹ Böhm, 2022

- to manage decisions on borders, as regions housing local communities, subject to equity; and not as parameters of utilitarian management of flows⁹²
- to develop a culture of accountability, also in border management vis à vis border area inhabitants (e.g., if CB mobility is restricted).

Coordination was lacking within domestic systems, both vertically between local and national authorities, and horizontally inside the state system itself. While proceeding with the present research about border management during the crisis, and trying to find appropriate contacts in national administrations, we have stated that several ministries were generally concerned (dealing respectively with national sovereignty (border control), considering the border as a line; regional development (in charge of monitoring the situation of border regions during the crisis, but not considering its CB dimension); with little information and coordination between them.

In the future, border management will require, in each state

- an integrated, holistic approach to cross-border regions – as for any region

And of course, coordination problems have occurred between neighbouring states. Cumulative effects of distrust, favouring the development of rumours, accelerated by pre-existing prejudice vis à vis other nations; by uncertainty and lack of information (general, across the border; about facts, different and evolving rules).

In the future, there is a need

- to build a simultaneously vertical (in each country), horizontal (across the border and towards CB citizens), and also **diagonal**⁹³ coordination, taking into account the asymmetry of territorial governance across the border
- to develop a systemic vision of communication, including proper connections between institutions; media; social networks; non formal, interindividual networks (“address book”).

What has been the EU role in the system of border management during

⁹² This raises the issue of the nature of spaces subject to “justice” (in the perspective of John Rawls’ Theory of justice): national territories, or wider spaces: CB regions, Europe (reference to a European citizenship), or even the world (refugees’ rights)?

⁹³ Tetyana and al., 2021

the crisis – and what should it be in the future?

The crisis has showcased a paradox: Schengen is an EU jewel; but the current legislation has shown its limits. Hence the necessity to update the Schengen Code, as the EC has undertaken to do, as of December 2021.

The present study includes an assessment of whether the guidelines, issued by the EC in Spring 2020, concerning free movement and healthcare assistance, had an effect on border closures. In short: according to the survey and interviews carried out, no instant mechanical effect has been reported. Few MS have explicitly referred to these guidelines in the decisions taken. Rather, it seems that the guidelines have served as a reminder to MS, as confirmation of the relevance of measures taken, and as development of an EU reference framework. Inseparably from concrete measures which have increased bilateral and European solidarity⁹⁴, mutual learning has taken place between MS and the EU, which has developed its actions and competences over the course of the crisis.

INSERT: Lessons of the effects of COVID-19 related measures for the 6 dimensions of CB integration

Let us consider a table with 4 columns (national territory, border line, border zone, Europe), and 6 rows (the 6 dimensions of cohesion). These dimensions spread out at first in each national territory (1st column); then they meet on the “Westphalian” border line separating two national territories (2nd column); they deploy in

⁹⁴ CESCO, 2021

the border zone, where two states agree to go beyond their sovereignty in a co-operation aimed at cross-border integration (3rd column); within a European, multi-level perspective (4th column).

Types of space/ 6 spheres/ types of obstacles	National territories in a context of limited opening of borders	Border line not fully open, as during the sanitary crisis	Border zone as it can develop when the border is open	Multilevel/European scale as a frame condition for open borders
Economic (Market; public economy: tax and social security contributions) - Market-regulating institutions, addressing individual workers - consumers - Economic obstacles	States are only concerned with the preservation of essential flows within national markets. National Citizen = taxpayer, financing public policies	CB gradients->economic flows CB integration only economic; border closure: only CB flows of "essential" workers and goods considered No common CB management -> spill over effect on non CB actors CB workers sometimes paying income tax abroad, but no public investment funding across the border	Consideration of the cross-border living area (not only workers, consumers; also, citizens, functional dimension) CB market, and CB economic policies Co-development Bilateral agreements on CB spatial planning and tax retransfer (CoE) CB recovery plans	European approach to cross-border work, "green lanes" for goods, ... European framework on taxation of CB work, like for social security (already harmonised through EU regulation)

Types of space/ 6 spheres/ types of obstacles	National territories in a context of limited opening of borders	Border line not fully open, as during the sanitary crisis	Border zone as it can develop when the border is open	Multilevel/European scale as a frame condition for open borders
Functional - Administrations, policies, public service managers addressing users - Technical and administrative obstacles	National territory: bundle of domestic public services maintained by state	Public services end at the border Limited interoperability Untapped potential for economies of scale and agglomeration Borders as filter In case of crisis, re-opening on a case-by-case basis	Cross-border integration Cross-border public services guaranteed in case of crisis: cross-border living area card; managed by EGTCs with competences Health criteria coordinated on the border	CPS European framework (Branda report), beyond sectoral regulations EU Green pass integrating the needs of CB living areas European health criteria

Types of space/ 6 spheres/ types of obstacles	National territories in a context of limited opening of borders	Border line not fully open, as during the sanitary crisis	Border zone as it can develop when the border is open	Multilevel/European scale as a frame condition for open borders
Institutional - States, local authorities and CB groupings, addressing citizens - Institutional obstacles	Institutional sphere embedded within nation state, founded on national democracy-limited to national citizens State provides security, solidarity, public goods and services via public policies Crisis management within the national (and/or sub-national: federal states...) democratic framework State monopoly of legitimate violence	Existing cooperation structures, but not mandated for crisis management Theoretical European citizenship-but limitation of free movement in case of crises No or little coordination on the border	CB governments or structures, under democratic control, with full mandates and competences Territorial structures with crisis management mandates Transnational democracy: CB citizen debate forums; towards CB election Towards Cross-border citizenship Dual citizenship recognised and encouraged	Multi-level governance of borders, regulated at European level (Schengen Code+) EU tool to solve obstacles (ECBM +) Network of European and national border coordination points Concrete European citizenship in particular in the CB context European competence in crisis management, public health

Types of space/ 6 spheres/ types of obstacles	National territories in a context of limited opening of borders	Border line not fully open, as during the sanitary crisis	Border zone as it can develop when the border is open	Multilevel/European scale as a frame condition for open borders
Information - Media aimed at informed individuals - Obstacles related to lack of information	Statistics, production of social sciences, education and media organised at national (or sub-national) level State monopoly of evidence	Border, place of contradiction between States Lack of cross-border information, redoubled in case of crisis Misunderstanding	CB Media Cross-border information organised on the basis of cross-border and multilevel structures	Multi-level European information European media

Types of space/ 6 spheres/ types of obstacles	National territories in a context of limited opening of borders	Border line not fully open, as during the sanitary crisis	Border zone as it can develop when the border is open	Multilevel/European scale as a frame condition for open borders
Culture - Civil society institutions (civic, cultural, etc.) bringing together inspired individuals - Obstacles related to culture, language	Civil society structured within national framework Each national territory is a community united by a "national narrative", heritage, common language Covid crash test of national cohesion; common references provided resources for trust	Borders: places where different cultures, visions, languages, clash Boundary between 2 national universes turning their backs on each other Covid crisis has re-activated mental borders, distrust	Emergence of a cross-border civil society People to people, educational, cultural projects Learning the neighbour's language Common history teaching Knowledge of the past, vision of common future, preconditions for CB integration and its maintenance in case of crises	Emergence of a European civil society European Observatory of history teaching (CoE) Towards an EU competence on education

Types of space/ 6 spheres/ types of obstacles	National territories in a context of limited opening of borders	Border line not fully open, as during the sanitary crisis	Border zone as it can develop when the border is open	Multilevel/European scale as a frame condition for open borders
Inter-personal - Institutions protecting the rights of families, couples, ...bringing together individuals - Interlinked persons: not only individuals as holders of rights, or agents - Obstacle: lack of interpersonal links; lack of willingness to cooperate	Life of couples and families regulated within domestic framework (civil status) Recognition of national citizens only Networks in a predominantly national framework	Only economic agents (CB workers) or national citizens considered Non-recognition of non-nationals (including in case of CB couples or families) Distrust Networks back-to-back at the border (boundary) with some exceptions	Guarantee the rights of persons, couples, families, living in CB living areas (beyond economic or national citizen status) CB living areas cards Informal, interpersonal CB links, going beyond routines: resources for CB public action, to be reinforced Multi-level structured cross-border networks of persons	Family rights acknowledged in a European and CB perspective European framework "27e scheme" (Alain Lamassoure) tested in the CB living areas Extended networks at European scale

C. Recommendations for the future of cross border territories, and their multi-level governance

Let us now present recommendations 1) at the local level of the CB region, 2) in a multi-level approach (EU framework, implemented within multi-level governance), deriving from lessons learnt in part I. Contrary to part I where we adopted a 6 dimension analyse, here we adopt a cross cutting, systemic approach.

Many cross-border stakeholders share the feeling, reinforced by the crisis, that cross-border cooperation 1.0, generally defined as voluntary, has reached its limits, and that we should move to CBC 2.0, where it would be an obligation, not just an option. Some authors characterise the evolution of border policies as moving from coordination to cooperation, and then to collaboration⁹⁵.

What should be the tools to fulfil such tasks? Let us consider a flagship CPS, the hospital of Cerdanya. It has been funded with the support of Interreg. Its governance is supported by an EGTC. To ensure the daily operation of the hospital, a number of domestic sectoral policies (where the EU has limited competence, such as health, civil status, rescue, ...) have to be coordinated, through an adapted regulatory framework. Identification of needs; elaboration, signature and ratification of bilateral agreements all take much time (more than 10 years for the Cerdanya hospital); so, this requires a new type of procedural tools (bilateral or European), allowing to accelerate processes. Hence such a CPS requires 3 different tools: funding tool (Interreg); governance tool (EGTC); and procedural tools.

Let us now explore these 3 types of tools A) at the local level of CB regions; B) within multi-level governance.

1. Recommendations at the local level of the CB region

After the initial shock of March 2020, persons were the first to react. Then local institutions, in particular certain cross-border governance bodies (Eurodistricts, Euroregions, European Groupings of Territorial Cooperation (EGTCs)), prompted the resumption of cooperation, showing, if proof was needed, that "if nothing is possible without men, nothing lasts without institutions", in the words of Jean Monnet.

Our previous study's conclusions, confirmed by this one, had advised to: Start from local cross-border communities and their needs; Consider cross-border living areas instead of borderlines and trust EGTCs and other cross-border bodies to show the way forward.

⁹⁵ Leuprecht, Brunet-Jailly, Hataley & Legrand 2021

a) Governance

As for the pattern that local CB governance should follow, diverse options are on the table. Let us mention the dilemma: should EGTCs (or equivalent organisations) be entrusted with competences, and not only missions⁹⁶ – as the EGTC regulation prescribes in its present wording? If they were to be given competences, under what democratic control? In other terms, should we move from CB governance to government?

The present study doesn't allow a clear-cut conclusion – it should depend on local contexts, and different understandings across the border – as the DE-FR border shows, for instance.

But in any case, CB local governance (more or less formalised), should innovate⁹⁷, both continually and in view of future crises, and:

- be given a more prominent role to manage borders, with increased capacities
- contribute to building a CB administrative space in adequation with the CB socio/economic space⁹⁸
- be facilitator, place of coordination, also in the case of a crisis (joint crisis strategies)
- develop cross-border public services (CPS) e.g., CB health integration⁹⁹; and ensure their continuity in the case of a crisis
- create CB spaces of interactions between politicians¹⁰⁰ and citizens, while tending towards permanent democratic CB councils

In our first study, we had also concluded that it was necessary to build cross-border mutual trust in the long-term.

Strengthening mutual trust¹⁰¹ requires acting on immaterial aspects such as information, culture, and interpersonal factors, and to develop

⁹⁶ Peyrony, 2021

⁹⁷ CESCO, 2021

⁹⁸ Cf J Beck's analyses about numbers of people working in CB vs domestic administrations; there is a big potential for improvement!

⁹⁹ CESCO, 2021

¹⁰⁰ BGTC of Benelux; role played by coordination between mayors at local level

¹⁰¹ CESCO, 2021

- CB territorial monitoring through local CB observatories delivering harmonised CB data at the level of CB living areas¹⁰² – with the support of national and EU levels
- CB information about projects (ESPOO convention¹⁰³)
- common CB information centres for CB workers, consumers, businesses, maintained in times of crisis
- intercultural training¹⁰⁴, training on language, knowledge of the system of the neighbouring country; Erasmus for civil servants, politicians
- CB media, CB education,
- funding of people-to-people projects to (re)-build trust
- personal networks (need to know personal contacts in case of crises); annual exercises involving politicians and civil servants at managerial level.

Education programmes or projects, intercultural training promoting the knowledge of language, common teaching of history, culture of the other side of the border, a common – existing or emerging – CB culture, and European culture, contribute to overcoming diverging narratives and visions, and build a vision of a common future of the CB region, and Europe.

CB resident card

CB integration can be supported by tools addressing concrete, daily needs of residents of CB living areas, both in ordinary situations and in times of crisis. A promising concept consists of a "mobility card" or "cross-border living area card", as it has been developed on the ES-PT border (see chapter 4), linking for instance CPS access with belonging to a CB living area.

Ideally, such cards would have the same format for all inhabitants, regardless of their nationality. They could be the medium for a variety of CPS, such as a common transport ticket for the entire cross-border living area. In the event of a crisis and border restrictions, for example for health reasons, such cards would replace or be combined with certification systems, which would facilitate checks. They could be issued by Infobests, EGTCs or equivalent bodies; they should avoid being presented in terms of "status" so as to avoid recreating border effects.

¹⁰² CESCO, 2021

¹⁰³ The Convention on Environmental Impact Assessment in a Transboundary Context (informally called the Espoo Convention) is a United Nations Economic Commission for Europe (UNECE) convention signed in Espoo, Finland, in 1991. It sets out the obligations of Parties to carry out an environmental impact assessment of certain activities at an early stage of planning. It also lays down the general obligation of States to notify and consult each other on all major projects under consideration that are likely to have a significant adverse environmental impact across boundaries.

¹⁰⁴ As Euro institute develops it on the DE FR CH border

Another perspective would be to link such a card with an EU green card, like the EU Covid certificate, developed during the pandemic¹⁰⁵. The advantage would be to connect a concrete measure for inhabitants of CB regions, and EU citizenship, demonstrating synergy between national and EU citizenship, through a sort of functional CB citizenship¹⁰⁶.

More broadly, this raises the issue of policies or practices in favour of CB regions and their inhabitants, that would refer less to EU top-down normative approaches, in terms of legal status, citizen rights etc... than to a bottom-up approach, more in terms of functionality, adaptation etc...

b) Procedures to resolve obstacles to CB integration

Many CB stakeholders, while developing CB projects, claim for any measure, to be going in the direction of adaptations, derogations of legal or administrative domestic rules; or mutual recognition between domestic regulations.

Derogations granted by states to solve CB obstacles have always existed, and are always possible, at least through bilateral treaties. An example is given by article 13 of the Aachen treaty between France and Germany.

Such measures of differentiation, justified by the border context (e.g., need to adapt to a specific situation, due to (economic, institutional...) parameters in the neighbouring state, seem to be of common sense; but may appear contradictory to equality / equity in domestic contexts.

Some authors propose to secure such CB local solutions (derogations concentrated on a limited CB area, thus having a limited impact), via a "de minimis rule"¹⁰⁷.

Another example is given by the French 2022 "3DS" bill (decentralisation, deconcentration, differentiation, simplification).

c) Funding

Interreg remains of course the reference tool for funding CB projects, but will generally prove to be insufficient to fund significant CB investments in fields such as transport. At least in strongly integrated CB areas, there comes the importance of developing tools such as the "Agglomeration projects" in Trinational Eurodistrict

¹⁰⁵ The idea of an EU regime of mobility (28th regime), that would be experimented in CB regions, has been developed by A Lamassoure in 2008: Rapport Lamassoure, 2008 <https://www.vie-publique.fr/rapport/29870-le-citoyen-et-lappli-cation-du-droit-communautaire>

¹⁰⁶ Approach close to Denis de Rougemont's vision of CB functional regions (1977)

¹⁰⁷ Beck 2021

Basel or Greater Geneva, mixing domestic, local¹⁰⁸ and federal funding (CH federal “policy for agglomerations”), while moving towards CB investment funds.

2. Recommendations within multi-level governance

Our previous study’s conclusions, confirmed by this one, advised to: Encourage cross-border bottom-up, bilateral or multilateral, and multi-level approaches – having in mind that the national level is key on border management; Assume borders’ diversity and complexity; Produce guidelines to harmonise border crisis management at the EU level while deepening the EU – states - CB Regions partnership.

During the crisis, most problems have come from lack of state coordination across the border. In a crisis context, sovereign states have legitimacy to limit mobility; but should coordinate, vertically with local authorities and the EU, and horizontally across borders. The EU’s thus far limited mandate should be increased on missions such as checking that state action is fair and proportionate; providing information and coordination.

As we have done for the local level, let us now explore, in a multi-level perspective, tools of regulatory framework, governance and funding.

a) Regulatory framework for the management of the border

A multi-level governance of borders is clearly required, hence the revision of the Schengen Borders Code. On 14 December 2021, the European Commission published its proposals for new rules to strengthen the governance of the Schengen Area. The draft regulation, which sets forth a "Union Code on the rules governing the movement of persons across borders", provides the obligation for Member States to designate "cross-border regions", that would be subject to derogations from measures restricting free movement at internal borders in the event of crises.

It is not for the present study to comment on the regulation or its negotiation process; but to provide some preliminary ideas and propositions from CB regions’ point of view, on the basis of lessons presented earlier.

As said earlier, a better knowledge of CB flows of persons and interdependencies they reveal in the daily life of CB territories is an absolute priority. Firstly, this knowledge is necessary to develop local public policies in favour of these territories. Secondly it should raise awareness of national and EU authorities, so that they acknowledge and take into account CB territories in their own policies. The evidence-based description of functional regions, that would allow better informed

¹⁰⁸ Including, in the case of Geneva, part of income taxes paid in Geneva by French CB workers

actions, is required, but is far from being available right now. Moreover, given the diversity of borders, there are doubts that unequivocal design of such “CB regions” by MS or EU would ever be possible.

We are just at the eve of new policy developments: in the years to come, multi-level CB monitoring (from local to EU); exploratory projects, supported by Interreg (ISO 1 and PO5 objectives); and lessons taken from the crisis, will all allow progress.

Functional approach:

Functional criteria based on accessibility and time¹⁰⁹ (“24 hours” rule¹¹⁰; or 3 hours maximum per day for travel to work and back) seem better than criteria based on distance. Activities in CB regions are not limited to CB work; the important idea here is that only persons who return daily to their home should be considered, so as to distinguish such mobility from weekly mobility for instance. But how should the “CB regions” (as mentioned by the draft Schengen Borders Code revision) be defined?

Evidence-based functional areas? They are not available until now.

Inhabitants of existing EGTC (or equivalent) perimeters? This would create side effects, and be difficult to manage.

NUTS 3 regions at the border? Even if it raises issues, such as their heterogeneity, this is already a common compromise.

In any case, it should be up to MS to define CB regions bilaterally¹¹¹, and to make them evolve, so as to adapt them to functional changes (e.g., new CB work flows towards a new plant).

“Small border traffic zones” can be considered as a good practice.

¹⁰⁹ The JRC study on driving time to border crossings, which DG REGIO used in its Border Orientation Papers (30 mins, 60 mins, 90 mins) is a good reference. <https://publications.jrc.ec.europa.eu/repository/handle/JRC116859>

¹¹⁰ See for instance French Décret n° 2021-99 du 30 janvier 2021

From 31 January 2021, anyone entering France, including from other European countries, needed to be in possession of a negative Covid test obtained within the previous 72 hours. However, this obligation did not apply to the inhabitants of cross-border living areas (for journeys lasting less than 24 hours in a perimeter defined by a radius of 30 kilometers around place of residence) or to cross-border workers. When checked, border area inhabitants were required to show proof of residence, proof of identity and, where relevant, a certificate from their employer.

¹¹¹ CESCO, 2021

The case of the “Small Border Traffic” regulation

Some Central European stakeholders refer to the “**small border traffic**” regulation, which is applied along some non-Schengen borders (HU-RO, PL-UA, PL-RU, PL-BY, etc) as a possible solution for facilitating the lives of internal borders’ inhabitants in times of border closures.

The small border traffic **permit** is the document that entitles the residents of the border area to cross the border of the state, according to the Regulation (EC) no. 1.931 / 2006 and on the basis of the concluded agreements.

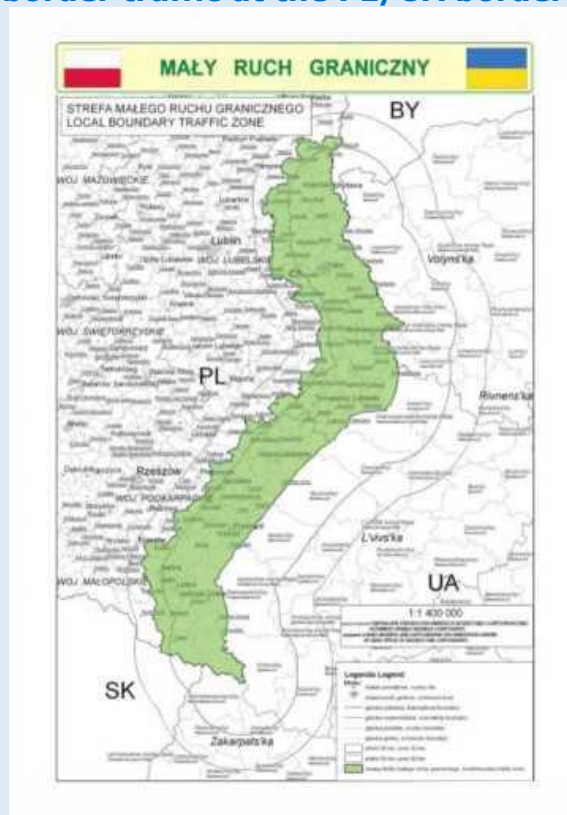
Border residents are given a permit limited to the border area which is **valid for between 1 and 5 years**.

EU countries must ensure that non-EU countries apply the **principle of reciprocity** and grant comparable treatment to citizens of the EU wishing to travel to their border area.

These agreements can allow border residents to use:

- border crossing points open only to border residents;
- special lanes at ordinary border crossing points;
- exceptional authorisations for border residents to cross the border outside authorised border crossing points and hours.

Figure 4.13: Small border traffic at the PL/UA border



Source: Mały Ruch Graniczny - informacje ogólne - Polska na Ukrainie -Portal Gov.pl

Approach based on a "status"

Acknowledgement of CB regions and the 'status of frontier workers' are intertwined questions, as the example of teleworking, explained earlier, shows.

The aim is now to find new rules allowing teleworking on a higher level than before the crisis. According to the results of a study carried out by the MOT¹¹², some recommendations can be made.

- In the context of renegotiations of bilateral conventions, simplify as far as possible the definition of the 'tax status' of frontier workers, and bring it closer to the definition of 'status of frontier workers' in Regulation 883/2004¹¹³. This subject could also be a contribution in the context of the reform of the Schengen Borders Code and the reflections undertaken on the definition of "cross-border regions"
- Take advantage of future renegotiations to develop a fairer approach (co-development, see KH Lambertz's report)
- Call on the OECD to monitor the application of its "model bilateral convention" on the non-double taxation of persons, and to encourage it to re-examine its model in view of border situations, that are sometimes very unbalanced, in the light of the emergence of border telework since 2020
- Encourage the European Commission to initiate an amendment / evolution of Regulation 883/2004 on social security rules, in order to take into account this new way of working that is teleworking, a fortiori cross-border, and rethink the notion of "substantial activity".

In the daily management of borders, public action should guarantee the rights of persons (including couples, families...). Hence, the Schengen Borders Code revision should provide procedural guarantees of information, explicit decisions, accountability, fairness.

The burden of proof has to be reversed. Systematic border controls have been suppressed by the Schengen legislation. National authorities are entitled to re-establish controls in certain conditions. In that case citizens have to prove their right to cross the border, but authorities also have to prove that they respect these conditions.

¹¹² MOT, 2022

¹¹³ Article 1 (f) "frontier worker" means any person pursuing an activity as an employed or self-employed person in a Member State and who resides in another Member State to which he/she returns as a rule daily or at least once a week".

b) Towards a bottom-up, multi-level governance of borders and CB regions

Part II A b has shown how local authorities and their CB groupings can be given new possibilities to act, in times of crisis and in normal times, through decentralisation, deconcentration, differentiation, simplification. Nevertheless, many obstacles require changes in national or even EU legislation, and/or bilateral treaties. The experience has shown that such legislation or treaties require far too much time to be elaborated, negotiated and ratified.

This is where the DE/FR Aachen treaty can be considered as a good practice, with its chapter dealing with CBC. Its article 14 establishes a channel to solve CB obstacles when local solutions cannot be found, under a multi-level democratic control, through a Cross-border cooperation committee involving local/regional authorities on both sides of the border, Eurodistricts (local CB governance bodies), national governments, and MPs¹¹⁴.

Such multi-level bilateral mechanisms exist on other borders: IT/FR (Quirinal treaty); ES/PT; DE/PL. Organisational asymmetries across borders require "diagonal"¹¹⁵ coordination, within a multi-level governance framework.

The study has shown the difficulty to identify those national administrations having a holistic view of borders. It seems clear that most MS should engage in better coordination of border management at national level.

This finds an echo with the draft regulation on ECBM – even if blocked so far by a working group in the Council – which includes the obligation for MS to create national or regional border coordination points. Beyond their role for solving obstacles, such coordination points should, in view of a holistic approach of borders, coordinate with:

- sectoral administrations at national level (as head of a network of contacts in each ministerial department)
- national Parliaments (CB impacts of domestic legislation)
- regional authorities within the country
- neighbouring states through a bilateral/multi-lateral approach (e.g., to coordinate transposition of EU directives).

The ECBM would be a generalisation of the Aachen Treaty's principles. The EU border coordination point created by the EC in DG REGIO, playing such a role while

¹¹⁴ Peyrony, 2021(2)

¹¹⁵ FR DE (ENA) Recommendations) to be generalised Alberts,T., Köbele-Ennaji, V., Ross,J. & Wolfart,V. 2021

interacting with sectoral DGs within EC, with EU institutions, and CBC stakeholders, shows the way.

Role of EU level

From investigations conducted as a part of this study, it is clear that the EU is expected to play a more important role in the future, for the monitoring of multi-level governance of borders, in a holistic perspective.

The EC has already made proposals, through 2 draft regulations, within 2 different areas: solutions of obstacles to CB integration (ECBM), as seen earlier; and management of borders (revision of the Schengen Code).

On the other hand, the present study has shown the extreme diversity, both of borders themselves, and of domestic contexts for border management (from large countries, federal or not, where borders can be far away from the capital) to small countries where borders are a day-to-day topic. What is there in common between Luxembourg (small state, where borders are everywhere) and Germany?

Arrangements should be specific to each country and border, making it difficult to design a "one size fits all" EU solution. It means that EU normative, top-down solutions should not prevail, but rather approaches where the EU has a softer role – as it is already the case for the 2 draft regulations mentioned above.

The EU should

- design European frameworks, in fields like CPS and their maintenance in times of crisis¹¹⁶
- play a general coordination role, through the action of DG HOME in the field of border management, and DG REGIO in the field of territorial cohesion
- create processes of convergence (e.g., for taxation of CB work, as it is already the case for social security)
- ensure that MS respect EU requirements on open borders (Schengen Code) and support to CB integration (ECBM)
- facilitate a network of national border contact points
- promote experimentation; peer reviews; collect, capitalize, and disseminate good practices, benchmarks, in particular through Interreg programmes (see C) below

¹¹⁶ See Branda report <https://cor.europa.eu/en/news/Pages/strengthening-cross-border-public-services.aspx>

- promote and support the development of Border Information Points (different patterns are possible, as seen earlier), to give appropriate reports to the competent institutions about the obstacles users are faced with, and to improve communication to inhabitants about cross-border policies implemented
- develop and communicate evidence about borders and CB regions, through its own action (statistic work: Eurostat, REGIO, JRC), applied research and network programmes (ESPON)
- provide information, EU standards, check lists, harmonise data
- develop CB impact assessment of EU legislation and contribute to promoting on each border the CB Territorial Impact Assessment (TIA) of legislation and measures taken¹¹⁷

MS should be free to choose the way they implement EU objectives, coordinate on each border: bilateral approaches like on the DE-FR border (Aachen Treaty); multilateral approaches (Benelux, Nordic Council). They should report to the EU, on the way they take account of CB regions in their policies, develop a CB impact assessment procedure for new legislation of national policies, contribute to the resolution of CB obstacles.

MS could be asked to provide annual reports, taking into account the “cross-border regions” point of view, that would be assessed by the EC (Open method of coordination?), both in the field of the Schengen Code (feeding the future “Schengen governance”), and in the field of CB integration (EU tool to solve obstacles, cf. ECBM). Nordregio (Giacometti, A. & Wøien Meijer, M. (2021) recommend soft bottom-up multi-level governance from border municipalities, CB committees, to national authorities, Nordic level (common crisis strategy, cooperation platform) and EU level.

Greater EU role for sectoral policies

Taking stock of problems that occurred and solutions that were developed during the crisis, the EU should also be entrusted with new roles or competences. This results directly from lessons learnt during the crisis, in fields such as:

- Harmonisation of crisis management from the EU level, including CB emergency plans that could be implemented locally
- Health policy, including CB Health integration¹¹⁸; definition of common health criteria (thresholds, quarantine duration...) and CB Data

¹¹⁷ See ITEM’s cross border impact assessment tool: <https://www.maastrichtuniversity.nl/research/item/research/item-cross-border-impact-assessment>; « CB check »

¹¹⁸ CESCO, 2021

(comparable data across borders)

But the crisis has also shown the need to progress on immaterial dimensions favouring CB trust, such as information and culture. More EU intervention would be welcome also in the field of education – also expressed through the Conference on the Future of Europe, that would contribute to the emergence of an EU society, also experimented in CB regions¹¹⁹.

c) Funding tools; moving towards CB co-development

As the EC has already explained¹²⁰, Interreg should not be considered as the only source of funding for CB projects. The crisis has confirmed that CPS (and their maintenance in times of crisis) are essential for the life of border inhabitants. Even if Interreg has contributed to funding CPS, and will do in the future, required investments often go beyond Interreg envelopes, and other EU or domestic funding is needed, but faces many obstacles and requires coordination¹²¹.

It may happen that an investment (such as a transport infrastructure) on one side of the border also concerns the other side and has to be funded across the border. Moreover, the economic situation and funding capacity can be asymmetric - as in case of borders separating an employment centre and an area with more residential characteristics¹²². Common strategy and funding are then required, to implement CB “co-development”¹²³.

Interreg programmes have in any case an incentive to develop synergies between programmes, integrated territorial approaches (Objective 5 “A Europe closer to citizens”); strengthen CB governance, CB data, and mutual trust (Objective ISO 1 “Better cooperation governance”).

Such an approach for Interreg is at the core of Cohesion policy¹²⁴, at the intersection of bottom-up approaches (because each border is specific, requires a customized approach, and knowledge is on the ground), and top-down approaches (because states, still regulating borders and controlling the largest fiscal resources, now have to exert their sovereignty in common, with the EU as common framework to build the single market and common goods, and face global transitions).

However, fast changes require necessary adaptations, more flexibility and decentralisation from cohesion policy¹²⁵.

¹¹⁹ On themes such as history; see CoE history observatory <https://www.coe.int/en/web/education/-/observatory-on-history-teaching-in-eu-rope-starts-its-work>

¹²⁰ EC, 2021

¹²¹ Streamlining EU programmes, CESCO, 2021

¹²² As in CB agglomerations or urban systems like FR CH Geneva, or FR LU border

¹²³ In some cases, including tax transfer

¹²⁴ As explained in the Barca report, 2009

¹²⁵ CESCO, 2021

D. Conclusion

During the first wave of the pandemic, states frequently restricted the mobility of people, in particular by closing or strictly controlling international borders. While this was justified to some extent for intercontinental travel, it was much less so for internal European borders, which split up cross-border living areas. The closure of borders should have been coordinated between states. Given the widespread uncertainty in which humanity found itself in the spring of 2020, states can be given the benefit of the doubt.

On the other hand, the intangible effects of border controls have contributed to validating a mistaken view of the nature of borders; they have created negative expectations and deteriorated confidence, as the public health crisis has largely confirmed. In any case, the crisis has revealed deep cross-border interdependencies. The modes of public intervention have been called into question, in general and in the cross-border context, which appears once again as a laboratory of inter-territoriality and multi-level governance (from local to European). In the future, for economic, social and simply human reasons, the reflex of closing borders without justification will not be acceptable. Future measures must be based on personal responsibility, vertical and horizontal subsidiarity, and coordination between actors.

A paradigm shift is needed. Each person is at the same time, sometimes across borders, a worker and an economic agent; a user of public services (e.g., a patient); a citizen (and a taxpayer) at local, national and European level; but also an informed or inspired person, a member of a family or a community. The person must be placed at the centre of reflection and action, in order to break the vertical and bureaucratic logics of institutions that have shown their limits. For border regions, the starting point should not be administrative procedures, but territorial ecosystems, "CB living areas", where people's daily lives can be either disrupted by closing borders or facilitated by cooperation. On this condition, the old Westphalian linear border, undermined by the crisis, will be overcome.

The interdependencies revealed by the crisis require new cross-border cooperation policies: functional approach, development of cross-border public services; cross-border status; multi-level bottom-up governance involving cross-border regions, states and the EU; but also, common cross-border knowledge and trust.

Nation states, whatever their deficiencies, have been the dominant framework for collective action and financial solidarity during the public health crisis and in the resulting economic and social crisis. The problem is less the nation state as such, than the overemphasis on a solitary exercise of sovereignty. Like any institution, the border is useful and respectable as long as its cost is not too high. The challenge is not to abolish it, but to desacralize it: to unveil its nature, to understand it by making its issues explicit. The public authorities are accountable to the citizens for a proportionate management of the border, and this in a multi-level

framework, where the different levels are jointly responsible. This is one of the challenges of the ongoing Schengen Borders Code reform.

The border is ambivalent: a line of enclosure that is supposed to guarantee internal cohesion within the national territory, but that rejects violence outside¹²⁶. National systems frame everyday life and the way people think.

The border is bound to be overcome through cross-border and European integration. New visions of cross-border territories and of Europe, going beyond national visions are required. This involves the construction of each of the 6 dimensions of cohesion, beyond borders: a common cross-border world, a common European world, as a collective project capable of including persons.

¹²⁶ which is reflected in the word "boundary"

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VII. APPENDIX

Annex 1: Introduction letter signed by DG HOME and DG REGIO



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
REGIONAL AND URBAN POLICY
European Territorial Cooperation, Macro-regions,
Interreg and Programme Implementation I
Interreg Cross-Border Cooperation Internal Borders

 Ref. Ares(2022)93393 - 06/01/2022

EUROPEAN COMMISSION
DIRECTORATE-GENERAL
FOR MIGRATION AND HOME AFFAIRS
Schengen and External Borders

Brussels
REGIO.DDG.D.2/NV

TO WHOM IT MAY CONCERN

Subject: Request for cooperation concerning an expert assignment on the
"Analysis of the impact of border-related measures taken by Member
States in the fight against COVID-19 – update and follow-up"

Reference: *Contract Nr 2021CE160AT109 between the European Commission
(Directorate-General for Regional and Urban Policy – DG REGIO) and
Mr Jean Peyrony of Mission Operationnelle Transfrontalière.*

Dear Sir or Madam

The Directorate-General for Regional and Urban Policy (DG REGIO) has contracted **Mr Jean Peyrony and his team** to conduct an expert assignment: "Analysis of the impact of border-related measures taken by Member States in the fight against COVID-19 – update and follow-up".

The overall objective of this assignment is to assist DG REGIO, the Directorate-General for Migration and Home Affairs (DG HOME), and other Commission services in implementing the European Parliament's pilot project: "Cross-Border Crisis Response Integrated Initiative – CR-CRII" by providing a better understanding of the effects on cross-border regions of the COVID-induced measures taken by Member States in the period after the first general confinement of Spring 2020.

We would very much appreciate if you could facilitate the work of this expert and his team, in particular when he contacts you for possible interviews or for other information related to the management of COVID-induced measures in your Member State.

For further information, you may wish to contact Ms Nathalie Verschelde (☎+322 29.21037 - nathalie.verschelde@ec.europa.eu), who is in charge of this file in DG REGIO or Ms Denise Kwantes (☎+322 29.83152 – denise.kwantes@ec.europa.eu) in DG HOME.

Commission européenne/Europese Commissie, 1049 Bruxelles/Brussel, BELGIQUE/BELGIË - Tel. +32 22991111
Office: BU-1 02/122 - Tel. direct line +32 229-98279

Nathalie.verschelde@ec.europa.eu

We thank you in advance for your cooperation and assistance regarding this assignment.

Yours faithfully

e-signed in ARES

Pascal Boijmans
Head of Unit
DG REGIO D2

e-signed in ARES

Corinna Ullrich
Head of Unit
DG HOME B1

ONLINE QUESTIONNAIRE



2 février 2022

Assignment:

Analysis of the impact of border-related measures taken by Member States in the fight against COVID-19 - Update & Follow-up

Online survey targeting National administrations: "Two-year review of border management and of restrictions affecting border regions in your country during the pandemic"

Assignment carried out by the Mission Opérationnelle Transfrontalière (MOT) on behalf of the DG REGIO and with the support of DG HOME.

Link to the first report produced after the first wave of the pandemic (spring 2020): "The effects of COVID-19 induced border closures on cross-border regions" <https://op.europa.eu/en/publication-detail/-/publication/46250564-669a-11eb-aeb5-01aa75ed71a1/language-en>

Estimated duration for completing the questionnaire: 10 minutes

Deadline: 21st February 2022, 12 a.m CET.

Many thanks in advance for your time.

- Name / Family Name:
- Member state:
- Institution:
- Position:
- Email:

1. Impact of the Commission's Guidelines

Have the "Guidelines concerning the exercise of the free movement of workers during COVID-19 outbreak" issued by the European Commission on 30 March 2020 had an effect on the measures taken in the internal border areas (lifting of restricting, exemptions, special regimes, etc) ?

- Yes
- No
- I do not know

Should you have an example of national legislation, measures or political statements in your country mentioning the EC Guidelines, please report them here:

What was their impact on legislation? How were these guidelines implemented?

Have the "Guidelines on EU Emergency Assistance in Cross-Border Cooperation in Healthcare related to the COVID-19 crisis" adopted on 3 April 2020 had an effect on the measures taken in the internal border areas (lifting of restrictions, exemptions, special regimes, etc) ?

-
- Yes
 - No
 - I do not know

Should you have an example of national legislation, measures or political statements in your country mentioning the EC guidelines, please report them here:

What was their impact on legislation? How were these guidelines implemented?

— 2. Evolution in the restrictions after the first wave of the pandemic

After the first wave (spring 2020) of the pandemic, would you say that your Member states' border restrictions towards neighbouring countries have:

- Almost disappeared
- Progressively been softened
- Known successive stages of tightening and softening
- Remained almost as tight as during the first wave

Has your country opted, until now, for restrictions based on:

- The citizen's nationality
- The area of residence of a citizen
- The motivation of border crossing (e.g. cross-border worker, activities considered essential or not,...)
- The length of the stay in the neighbouring country (e.g. 24 hours)
- Health checks
- Other : _____

Has your Member state implemented specific measures (exemptions or experimentations, specific status, cooperation in the field of health care or emergency), targeting border areas and their inhabitants?

- Yes
- No
- I do not know

Could you describe these measures in a few words or provide with links to online resources detailing these measures?

— 3. Impact of border-related measures on citizens' cross-border interactions

What have been the main domains where citizens have been impacted in their daily life across borders? (ranking)

- Impact on cross-border mobility (travel time, possibility to cross the border, suspended CB public transport lines...)
- Impact on cross-border work (taxation, job loss, travel authorizations, development of teleworking...)
- Impact on the users of cross-border public services (healthcare, information provision, education, other...)
- Impact on economic activities (seasonal jobs, apprenticeship, doing business across borders, shopping, tourism...)
- Impact on social and cultural activities (family life and social interactions, attending cultural events...)

-
- Impact on cross-border mind-sets (frustration, discriminatory acts, loss of mutual trust towards the neighbour...)

Has your institution identified specific or new obstacles to cross-border interactions which have emerged during the pandemic?
Please detail:

Have you perceived a greater support to citizens along borders where "Border information points" or more generally local cross border organisations are active? Or, the other way round, a greater need to reinforce and to support the emergence of such information centres?

What has been the degree of acceptance by communities of the measures taken by States? Was there any citizen reaction?

Do you expect the measures taken in the internal border areas to have long term effects on border inhabitants' habits?

- Yes, significantly
- Yes, partly
- No, they should not have long term effects
- I do not know

– **4. Role of all levels of government and of key stakeholders in facilitating cross-border life**

How has the coordination in border management between the national level and the local level materialised in your Member state?

- Cross-border committees
- Crisis management task forces
- Delegation of border management to local authorities
- Informal exchanges
- Another case: _____

Have the measures taken in the internal border areas been coordinated across the borders after the first wave of the pandemic?

- Yes
- To a certain extent
- No
- Other: _____

Have border management committees -gathering institutions from both sides of the border- been active or emerged during the pandemic? Which ones and along which borders?

Does your National Recovery Plan include a cross border dimension in some specific thematic areas?

- Yes
- No
- I do not know

If yes, please detail: _____

Which activities carried out by local cross-border structures (EGTCs, Euroregions, Eurodistricts, etc.) represented the strongest added value for border areas in your country? (*up to 3 answers*)

1. Lobbying and carrying on advocacy activities towards national authorities
2. Coordination and crisis management alongside local, regional or national stakeholders
3. Providing information to cross-border inhabitants and commuters
4. Carrying out surveys to understand the main obstacles and the impact of these measures on local inhabitants
5. Keeping the cooperation spirit alive in a difficult time
6. Drafting CB public policy proposals for recovery plans and future border management

— 5. Recommendations for the future

What would be the main lessons learnt by your institution from this period, both in terms of cross-border governance and of border management? (*up to 3 options*)

- 1. Start from local cross-border communities and their needs
- 2. Consider cross-border living areas instead of borderlines
- 3. Build cross-border mutual trust in the long-term
- 4. EGTCs and other cross-border structures can show the way ahead
- 5. Encourage cross-border bottom-up, bilateral or multi-lateral, and multi-level approaches
- 6. The national level is key on border management
- 7. Assume borders' diversity and complexity, depending on the region
- 8. Produce guidelines to harmonise border crisis management at the EU level
- 9. Deepen the EU – States -- CB Regions partnership

Do you have examples of good practices which could show the way ahead for crisis management at borders?

Please detail here or enter the link to an online resource: _____

What would be your recommendations for facilitating cross-border life in cross-border functional areas during future crises?

- Establishing a specific status for the inhabitants of border regions
- Establishing a specific status for cross-border commuters only
- Establishing a maximum distance from the border within which freedom of movement will be respected for inhabitants
- Establishing a border contact point in each Member state to provide a cross-cutting approach to border obstacles
- Other : _____

In your own view, how could "cross border regions" be defined in your Member state, as requested by the proposal of the revision of the Schengen Border Code (COM(2021) 891 final) ?

- NUTS 3 level
- NUTS 2 level
- By considering existing EGTCs or cross-border cooperation structures
- A functional area (defined by the distance from the border or by another criteria)

-
- Other : _____

In your opinion, will the relevant authorities of the neighbouring MS concerned be involved into these discussions?

Should cross border structures be entrusted with new missions in view of the proposals contained in Art.26 of the proposed amendment of the Schengen Borders Code? Which one of the following? ...)?

- Providing up-to-date information on border issues to citizens
- Managing cross-border public services
- Leading border management committees during crises
- No, they should not be entrusted with new missions
- Other : _____

Has the crisis had an impact on the 2021-2027 Interreg programmes?

- Yes, the territorial dimension of Interreg programmes will be strengthened
- Yes, functional cross-border areas will be defined within the programme
- Yes, a stronger involvement of key territorial stakeholders will be promoted via the « Better cooperation governance » objective
- Yes, a focus on solutions to border obstacles will be adopted under the « Better cooperation governance » objective
- Yes, small project funds will be implemented in order to increase mutual trust across borders
- Yes, programmes will deal with the challenge of crisis management and of resilience
- No, it had no major impact
- Other

Has the pandemic been an opportunity to relaunch bilateral relations with neighbouring countries?

- Yes, a new bilateral (or multilateral) Treaty was signed
- Yes, an agreement on border issues was signed
- Yes, a new cross-border coordination body was established
- No
- Other : _____

- Would you be available for a short interview in the framework of the current assignment?

Contact at the M.O.T. :

Raffaele Viaggi

Policy officer cross-border studies

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Annex 3: Articles with direct references to cross-border regions in the draft regulation of the revision of the Schengen Borders Code

Article 26: Criteria for the temporary reintroduction and prolongation of border control at internal borders

1. To establish whether the reintroduction of border control at internal borders is necessary and proportionate in accordance with Article 25, a Member State shall in particular consider: (...)

(b) the likely impact of such a measure on:

- movement of persons within the area without internal border control and
- the functioning of the cross-border regions, taking into account the strong social and economic ties between them

(...) Where border controls at internal borders have been reintroduced or prolonged, the Member States concerned shall, where necessary, ensure that they are accompanied by appropriate measures that mitigate the impacts resulting from the reintroduction of border controls on persons and the transport of goods, giving particular consideration to the cross-border regions.”

Article 33: Report on the reintroduction of border control at internal borders

« Within four weeks of the lifting of border control at internal borders, Member States which have carried out border controls at internal borders shall present a report to the European Parliament, the Council and the Commission on the reintroduction and, where applicable, the prolongation of border control at internal borders. (...)

The report shall outline, in particular, the initial and follow-up assessment of the necessity of border controls and the respect of the criteria referred to in Articles 26 (...) the practical cooperation with neighbouring Member States, the resulting impact on the movement of persons in particular in the cross-border regions, the effectiveness of the reintroduction of border control at internal borders, including an ex-post assessment of the proportionality of the reintroduction of border control. »

Article 42b: Notification of cross-border regions

« By [two months of the entry into force of this Regulation] at the latest, Member States shall notify the Commission the areas of their territory considered as the cross-border regions. Member States shall also inform the Commission of any relevant changes thereto.” »

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