

Joint Benelux-Baltic position paper regarding the importance of impact assessments of EU-policies on border regions

Recent experiences have shown us that there have been strong and unprecedented tendencies towards restricting free movement at our internal borders in order to curb the spread of the pandemic. While the fight against the virus and the protection of public health are a high priority for all of us, some of these measures have impacted cross-border communities in the EU in a disproportionate way.

Cross-border communities are estimated to account for about 30% of EU citizens. These thriving communities have developed over decades of open borders in the EU. In some cases the very existence of these communities has been made possible by the EU acquis. They are an embodiment of the many successes of European integration. Failure to protect this achievement risks creating long lasting and structural damage to the very fabric of our Union.

In their coordination on measures restricting free movement, Member States have agreed that frontier workers, in particular those fulfilling essential functions, must be exempted from quarantine requirements or testing obligations. The Benelux and Baltic countries underline that this understanding needs to retain its validity, also within the context of the emergence of new variants.

EU law imposes a number of limitations on measures that can be taken at national level. This pertains in particular to the principles of proportionality and non-discrimination, as enshrined in the Treaties. We recall that free movement of persons, services and goods is a fundamental principle of EU law that can only be restricted on limited grounds, as stipulated by the free movement directive from 2004.

Free movement and cross border activities are not only part and parcel of the fundamental freedoms we enjoy as European citizens and businesses, but also a generator of growth within our internal market. This applies in particular to the free movement of workers, including in the context of the provision of services. EU citizens cross our internal borders, often on a daily basis, not only to reach their permanent workplace, but also for example in the framework of temporary postings or seasonal work. The same applies to independent business owners across many areas of activity who reach out to customers across their own national borders – online or offline.

But the reality of the border regions is not limited to economic considerations. It should be highlighted that internal borders are also regularly crossed for reasons of education, family visits, or the efficient use of infrastructures such as hospitals, among other reasons. The cultural enrichment of these possibilities should not be understated.

The pandemic has shown the importance of a truly integrated Single Market in order to ensure the functioning of our economy, be it with respect to the production and supply of essential goods or to the free movement of workers fulfilling critical tasks in many areas. Temporary restrictions regarding the Single Market which were introduced to tackle the COVID-crisis, should therefore be lifted as soon as the

epidemiological situation allows. The Single Market is at the heart of the economic recovery and one of our greatest assets when it comes to spreading prosperity and strengthening resilience; one more reason thus to deepen the internal market in the coming years, particularly in the field of services, to strengthen EU-wide ecosystems and to prevent future bottlenecks and shortages as observed during the crisis.

We now have to draw lessons from this crisis. The interests of cross-border communities are a legitimate concern, just as the protection of public health is. Better care must be taken at Member State and Union level to account for the specificities of these communities, their contribution to the European project, their economic and cultural potential. We have to protect free movement principles in cross-border regions, where communities may have been hit disproportionately by restrictions.

Therefore we call for a reflection process on how to include a "cross-border test" into our policymaking at Member State and Union level. This would mean that, in practice, measures that could risk affecting the interests of our citizens who regularly cross internal borders, would need to be assessed as regards their possible negative, and often unintended, consequences.

We, therefore, will also take into consideration the lessons and recommendations from the integral Territorial Impact Assessment pilot that will be performed under the Territorial Agenda 2030. This pilot will take into consideration the Union's internal border regions to make sure that the interests of these regions are also taken into account in the methodology.

This process would also seek to determine ways to prevent or mitigate these effects, and propose remedies where necessary.

Furthermore, we have to work on a more resilient Single Market in order to be ready for further crises. New, unjustified barriers should be prevented.