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and financial crisis:
Transformations in work in
the Greater Region**

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The current economic and financial crisis: Transformations in work in the Greater Region

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Abstract

In Luxembourg, the portion of cross-border workers amongst wage earners is very high. How are these workers involved in the governance of the labour market? Major agreements on employment are adopted by the Chamber of representatives. Then, they become applicable to all wage earners performing their occupation in Luxembourg, practically one-half of them being cross-border workers.

This paper will try to answer the following questions. Can such a governance model persist if cross-border workers continue to grow? What form of governance should one assign to the Luxembourg labour market with the legal entities and institutions of the Greater Region in order to better involve the cross-border workers in such governance, knowing that they will soon make up the majority? Can the border crossers become the victims of the current crisis? Isn't there a risk that Luxembourg would find itself in a situation where inside a sovereign state a minority would end up making decisions setting itself over a majority on the labour market? How could one then better integrate the entire workforce in a new form of transnational governance?

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Introduction

In Luxembourg, the part of cross-border workers amongst wage earners is enormous.

If we assume that their number will still be on the increase, what would the impact of the governance on the labour market in Luxembourg look like?

Currently, major agreements on employment and social security are negotiated within the Tripartite Coordination Committee. Those agreements are voted by the House of Representatives, comprising nationally elected representatives. If they successfully pass the legislative process, they become applicable to all wage earners with an occupation in Luxembourg, which corresponds to nearly half of the cross-border workers. The question therefore gives rise to the question if such a model of governance is to persist when the number of cross-border workers continues to grow. An increase of the number of cross-border workers is likely evolution since statistical forecasts indicate that the number of cross-border workers will soon exceed the number of resident workers in the national labour market.

What form of governance should be assigned to Luxembourg's labour market with the legal entities and institutions of the Greater Region in order to better involve cross-border workers in governance process, knowing that they will soon make up the majority?

Has the economic and financial crisis since the autumn of 2008 had a significant impact on the particularly peculiar labour market? Can cross-border workers become the victims of the crisis?

The relevance of our reflections resides in the two following questions. Is there not a risk that Luxembourg would find itself in a situation where inside a sovereign state, a minority would end up making decisions and setting itself therefore over a majority on the labour market? How could one then better integrate the entire workforce in a new form of transnational governance?

In more detail, our article will deal with the above-mentioned issues. In the first section, we present the elements that illustrate both the internationalisation of the labour in Luxembourg and its governance. In a second section, we attempt to underline how the current economic and financial crisis is likely to have affected those cross-border workers. In a third section, we briefly analyse the institutions of the Greater Region in order to detect how they might collaborate with each other with a view to setting up a cross-border governance of that regionalised market. Finally, we present in a fourth section several conclusions together with some approaches for further reflection.

Section 1: Internationalisation and labour market governance in Luxembourg

Cross-border workers on the labour market

We first provide some brief remarks on certain aspects of the Luxembourg labour market. We briefly depict the situation in Luxembourg as far as the internationalisation of its labour market is concerned and proceed from several angles. Then, we take a glimpse at how the governance of that market is organised in Luxembourg. We will end with several observations and considerations leading to future considerations.

Luxembourg's situation is peculiar in Europe. The country does not possess a national labour market, but instead a real regional market with undeniable international aspects. The mobility of the workers is a historical reality characterised by impressive cross-border flows. The situation is known, but deserves some closer attention. The country's economic and geographic situation explains this phenomenon, as we will soon discover.

As of 31 March 2009, the Office of the Inspector General of Social Security (IGSS) estimated that cross-border workers represented 43.9% of wage earners. As of 31 December 2009, they came to a total of 145,249 cross-border workers. Amongst them, 48.9% came from France, 25.7% from Belgium and 25.4% from Germany. According to data from the Statistics and Economic Research Department (STATEC), available in 2008, internal salaried employment was still progressing at an annual rate of 5%. The increase in cross-border employment was 7%, that of national employment 3%.¹

Two major reasons may explain this phenomenon more precisely. First of all, the high unemployment rate in Luxembourg's bordering regions. According to the harmonised data from Eurostat,² in 2007, the following unemployment levels were recorded: 7.7% in the Lorraine, 7.3% in the Saarland, 6.0% in Rhineland-Palatinate and 10.5% in Wallonia. As regards Luxembourg a rate of 4.1% is registered. Such conditions on the borders of the Grand Duchy are likely to attract a large number of persons who find themselves unemployed in their own country. Moreover, Luxembourg is a job creating economy. The second reason can be defined as the following: Certain precise skills required by companies established in Luxembourg are lacking inside the country. Recourse to a qualified workforce outside of the country becomes inevitable. We only need to recall that the issue of professional training is one of the essential points where Luxembourg must still make efforts, according to EU recommendations. Part-time labour constitutes itself another type of labour market that is worth looking at.³ Even if it only constituted 2% of total employment in 2007, that market was actually even more internationalised than what could be called the classical market. For several years now, a constant part of about 80% cross-border workers have been recorded, compared with 20% for residents. Amongst the latter, those with the Luxembourg nationality make up only 2-3%. An internationalisation

phenomenon also predominates on this particular market due to the temporary assignment procedure. The latter is organised under European law and under certain conditions workers are permitted to perform their work or their assignment contract for temporary work in another European Union state. Amongst the wage earners registered in Luxembourg in 2001, 7% were on assignment abroad. At the present time, the proportion has risen to almost 25%. The phenomenon is essentially explained by the fact that the employer's contribution rate is more favourable in Luxembourg. However, we will not go into details, but simply emphasise the internationalisation phenomenon that results from this.

We have just indicated that the part of cross-border workers amongst all wage earners has not ceased to grow in size. Assuming that such a situation will continue or even intensify, what may become of the governance of the labour market in Luxembourg? Currently, the majority of major agreements on employment and their effects on social security are negotiated inside the Tripartite Coordination Committee. Those agreements are then voted by the House of representatives that is composed of its nationally elected members. The agreements then become applicable to all wage earners engaged in their occupation in Luxembourg, one-half of whom are cross-border workers and a large number of others are non-Luxembourg residents of the country. Can such a model of governance persist if the growth of cross-border workers and non-nationals continues? Do we not then ultimately risk ending up in the highly peculiar situation where, in a sovereign state, a minority ends up making binding decisions for a majority on the labour market? The question may well appear to be a paradox, but it is well within the realm of the possible.

In a very recent issue, STATEC stated: "It has been shown many times that immigration to Luxembourg is essentially connected to manpower requirements that, in view of the productivity gains expected, are themselves dependent upon economic growth. What will the impact of these economic variables be on demographic growth, when one considers that a part of the demand for labour can also be satisfied by cross-border workers who do not figure in the demographic forecast projections restricted only to residents?"⁴ That question is crucial as the prevailing economic crisis may finally stand in contrast to many forecast scenarios or even disprove the hypothesis advanced above.

Representation of cross-border in Luxembourg

The question that now arises is to know how, at present, cross-border workers are represented in the available industrial relations institutions, and in the absence of the possibility for them to be able to play an active decision making role. Let us look at the following aspects:

During the meetings of the Tripartite Coordination Committee, which took place in 2005 and 2006, the Government and the social partners decided unanimously and, in response to the changing economic climate, to proceed to a general assessment of the country's economic situation. One

message of the tripartite package centred on the introduction of the so-called “single status” for wage earners in the private sector. On 29 April 2008, Luxembourg’s House of Representatives voted the bill that stipulated the introduction of the single status. The law came into effect on 1st January 2009 and concerns currently more than 257,000 wage earners (155,000 blue-collar workers and 120,000 white-collar workers). One of the pivotal objectives of the single status for wage earners in the private sector consists in the abolition of all existing differences within Luxembourg’s social legislation between blue-collar and white-collar workers in the private sector⁵.

In order to better understand the situation, it is crucial to mention that prior to the introduction of the single status, there existed 6 professional associations in Luxembourg: the Chamber of Agriculture, the Chamber of Trade, the Chamber of Commerce, the Chamber of Private Sector Employees, the Chamber of Labour, and the Chamber of Public Servants and Public Employees. The professional associations must above all play the role of an advisory board in addition to their association in the legislative procedure of the country.

The introduction of the single status has led to the reorganisation of some institutions, included the merging of the Chamber of Labour, representing blue-collar workers, and the Luxembourg Union of Private Sector Employees, representing white-collar workers from the private sector. With the exception of government officials and public sector employees, all workers and all pensioners with private sector status had to join this new single body: the Chamber of Wage Earners⁶.

Now, after the mergers, there is both a single professional body representing private sector workers, the Chamber of Wage Earners, and a single health insurance authority. The merger of the professional associations was carried out in the aftermath of the social elections of 12 November 2008.

The social elections of 12 November 2008 were the first time for members of the new Chamber of Wage Earners to be elected. Let’s have a look at the effects.

The elections were organized via postal ballot and in the form of candidate lists comprising trade unions in particular. About 400,000 employees and pensioners who work or used to work in Luxembourg, regardless of their place of residence, were invited to vote. The election took place on 12 November 2008.

However, it should be pointed out that the official statistics of the 12 November 2008 elections had not been made public by November 2009. We were only informed by several people responsible for the organising part of the elections that the voter turnout of cross-border workers was very low.

The Chamber of Wage Earners comprises 60 elected members. Among others, there are 5 main organisations that run in the elections: the Independent Union Confederation – Luxembourg (OGB-L), the Luxembourg Confederation of Christian Unions (LCGB), the Luxembourg Association of Banking and Insurance Employees (ALEBA) and two other active unions from the rail sector: FNCTTFEL (with close links to the OGB-L) and SYPROLUX (with close links to the LCGB).

During Luxembourg's social elections in November 2008, the country's two main trade unions, OGB-L and LCGB, launched an information campaign for cross-border workers. More specifically, both trade unions held information meetings in bordering towns such as Saarbrücken in Germany, Thionville in France and Arlon in Belgium.

The OGB-L also launched three websites aimed at Belgian, French and German cross-border workers. The association highlighted how its websites differed from other internet initiatives, perceiving cross-border workers more as “consumers”. The OGB-L believed that cross-border workers should be primarily viewed as employees contributing, on a daily basis, to Luxembourg's wealth and diversity and that they would be entitled to know their rights. For its part, the LCGB dedicated part of its website to cross-border workers. Election posters for Luxembourg unions were also set up along Belgian, French and German roads.

As for the OGB-L, the low turnout of cross-border voters in the social elections can be explained by a misinterpretation of Luxembourg's model of social democracy. However, despite several efforts made by the trade unions to provide information, the interest of cross-border workers in social elections remains low. This can be attributed to a number of other factors. On the one hand, the rate of unionisation is very low in France (10%) where about half of Luxembourg's cross-border workers come from. On the other hand, there are significant disparities in the structure of salaried employment which comprises Luxembourgish citizens, migrants living in Luxembourg and cross-border workers. Disparities also exist among the candidates running in the elections. Furthermore, not everyone totally agrees with Luxembourg's trade unions or their messages.

It is possible that, as a result of this situation, the representative character of a body such as the Chamber of Wage Earners may be affected and perceived by some cross-border workers as a largely national body, although it is difficult to talk of discrimination against cross-border workers as their interests constitute a concrete issue on the social dialogue agenda.⁷

Briefly, it seems that in addition to the old divide that results from the coexistence of ideological unions, Luxembourg will increasingly witness the presence of two different worlds: cross-border workers and resident workers. Yet, we point again to the fact that the figures (although not published

yet) of the most recent social elections organised in 2003 and 2008 in Luxembourg indicate that the number of these cross-border workers taking part in the election, was very low.

In the medium term, this will be a serious problem concerning the representation of salaried employees working in Luxembourg. In fact, we have emphasised that the share of cross-border workers among salaried workers as a whole has increased. Furthermore, there are numerous non-nationals on the employment market. Supposing that this situation remains stable or will increase, what will become of the governance on Luxembourg's employment market? As previously explained, most of the agreements on employment are negotiated within the Tripartite Coordination Committee. These agreements are then voted by Luxembourg's House of Representatives comprising nationals only. The agreements will then be applied to all the salaried workers in Luxembourg. Can a similar model of governance persist if the increase of cross-border workers and non-nationals continues?

As a result, cross-border workers would not seem to be really concerned by the election of delegates into the professional associations, representing their interests. However, the issue concerning the participation would be clearly asserted if the increase of the cross-border labor force is to continue so as to exceed those of the residents. In this case, it would indeed be unimaginable that a majority of salaried workers would not be concerned by the governance of the employment market, on the basis that the workers live abroad instead of living where they carry out their salaried activity.

Considerations and possible approaches

All of the questions we have just raised ought to inevitably call for appropriate responses. Possible answers could be seen as the following: First, it would be a significant step to change the legislative regulations so as to allow for greater participation of cross-border workers in labour market governance (i.e. modernisation of the law on trade union elections, simplification of voting procedures, introducing internet voting,). Another response might in turn be the extension of providing citizenship to foreigners residing in the country, even though procedures of this type already exist such as, for instance, double nationality.

In any case, every response should be preceded by a clear and unavoidable debate on what is currently referred to as national sovereignty. Will the people of Luxembourg be prepared to practically abandon a part of their national sovereignty on the pretext of nationalising the labour market in their country? This would mean lots of issues and debates ahead. If the current situation persists, the country will not be able to avoid a major discussion of these matters.

Section 2: Cross-border workers and the economic crisis⁸

Let us see now if this significant proportion of cross-border workers could be affected by the current crisis.

With zero GDP growth in the third quarter of 2008, Luxembourg has not been spared from the worldwide cyclical (economic) slowdown.

Unemployment has strongly increased in recent times. It posted a rate of 5.5% in January 2009 before rising to 6.3% in December of the same year. Recourse to (part-time employment measures) partial unemployment is on the increase. The number of those out of work is normally greater in December than in November due to seasonal phenomena such as the arrival of high school and university students on the labour market when they finish their studies, the expiry of numerous fixed-term contracts (particular in temporary employment). Thus in 2008, with 710 more people out of work from November to December the annual progression of the number of job seekers was 17% in December 2008 while it has not even reached 10% for the three preceding months. The increase observed at the end of 2008 refers (in particular) particularly to male unemployed, aged between 30 and 40, with a lower level of education (that of obligatory schooling) and who had been working as craftsmen or workers.⁹ The negative growth in GDP forecast for 2009 will inevitably have repercussions on employment.

According to data available in October 2008, domestic wage employment always advanced by some 5% on an annual cycle (cross-border employment: +7%, domestic employment: +3%). Bank employment dropped slightly in the fourth quarter of 2008 by 0.2%, or 61 jobs, by comparison with the third quarter). This constitutes the first drop (that has been) observed since midyear 2004. Bank employment is again rising on an annual comparison (by about 4%), but the banks, except those that had always had social rescue plans, will be moved to limit their staff expenditures even more, as a reaction to falling returns, (an evolution) something that will certainly mean (s) staff cutbacks in the coming quarters.

What (repercussions) ramifications will this have on cross-border employment? The question is justified and the alarmist headlines in the press, both in Luxembourg and across the border, in the early part of 2009, testified (to) this very clearly. There were even predictions of a fall in cross-border employment over 12 months¹⁰ in total contradiction to IGSS and STATEC statistics that indicated growth by 6%.

Will the cross-border workers have to pay the price of the crisis in Luxembourg? This is what the headlines in certain press media (articles) might suggest, and that is also what public opinion on the other side of the border might remember.

Except for the usual decrease at the end of the year (but less significant than in previous years), domestic employment has not fallen according to IGSS data available at the end of February 2009 and their impact on the extent of employment in the financial sector remains limited.

According to a communiqué from IGSS dated February 3, 2009, domestic employment went from 358,994 at the end of September 2008 to 360,463 at the end of October, being an increase by 1,469 units. Total cross-border employment went from 151,981 to 152,607, being an increase by 832 units. For wage earners, the change has been from 149,286 to 149,865 (+579).

According to STATEC,¹¹ a more pronounced slowdown in employment must nonetheless be expected in November and December 2009 given the accumulation of (normally) usual negative indicators for that period of the year.

Nevertheless, a significant paradox has to be mentioned. Form E 301, used by cross-border workers to prove their periods of employment in Luxembourg to qualify for unemployment compensation benefits in their country of residence (witnessed) went through the following fluctuations: 14,870 forms were issued in 2006, 12,213 in 2007 and 13,725 in 2008.¹²

The first conclusion that can be drawn here is that there were fewer of them in 2008 than in 2006 even though the number of cross-border workers increased strongly in two years. Admittedly, there were more in December than in previous months, although that this is a phenomenon observed at the end of every year.

More basically, the E 301 statistics do not allow (us) to draw precise conclusions. In actual fact, not all laid off workers need that document: it is an absolutely necessary document in France, but not (a less essential one) in Belgium. That is what explains, for example, the fact that 9,407 documents were issued for use in France whereas only 601 documents for use in Belgium. Let us not forget that French residents represent 50% of all cross-border workers and Belgians only comprise 25%.

Second, the same person (jobseeker) may obtain several E 301s in one year, which is the case with temps, for instance. We should remember that, by residence, 79% (in 2006 data) of the temporaries were cross-border workers and that 66% of them were French by nationality.¹³ In 2005, 18,954 temporary assignment contracts were signed. And an assignment contract inevitably expires. One

therefore arrives at a conclusion that is surprising at first glance: There are more E 301s in periods of growth because there are more assignment contracts and thus more assignment contract expirations.

Third, the fact that someone is given an E 301 at the end of the assignment contract, a fixed-term contract or upon being laid off (dismissed) does not necessarily mean that the person is permanently unemployed. According to information from public employment services in neighbouring regions, this is only the case for a minority. The unemployment statistics from FOREM, the public employment service in Francophone Belgium, quoted below, indicate this.

Finally, issuing E 301 forms is only an (very) imperfect indicator of a phenomenon that has always existed, to wit: involuntary staff turnover. We do not know of any study on this subject in Luxembourg. These figures have been estimated by SECUREX for Belgium which, in 2007, found that one worker out of six left his company (16.3%) and, for whatever reason, about half of them (7.4%) did so involuntarily.

We should therefore now once again ask ourselves the following question: Is there deliberate discrimination of cross-border workers in this period of crisis?

That idea, which appears to be spreading in the public opinion on the other side of the Grand Duchy's border, does not withstand analysis.

If one must expect, in case of involuntary turnover, that the frequency of starting work is higher in the portion that it represents in domestic employment (45% in 2008), it is for objective reasons:

First of all, the first people affected are temporaries and about 80% of them are cross-border workers. Thereafter come non-renewable fixed-term contracts. But the last ones to be hired are by majority cross-border workers. In five years, from March 2003 to March 2008, the net job creation rose to 55,349 units, of which 69% were cross-border workers.

Finally, partial unemployment affects those sectors "vulnerable" to the crisis, including industry: Cross-border workers represent 59% of employment there. This is a measure that affects people's income, but allows them to safeguard what is essential, to wit equipment and employment.

This being said, will we witness a massive reflux of cross-border workers from Luxembourg back to their countries of residence?

This is what is being said and being read on the other side of the Luxembourg border, but also in Luxembourg as well, and (this) for more than a year now. But, it is nonetheless contradicted by

statistics. The Belgian province of Luxembourg offers a perfect illustration of this to the extent that cross-border workers there represent 22.5% of the population in employment in 2007.¹⁴

In fact, the total number of job seekers registered with (FOREM) Forem fell by 12 units between January 2008 and January 2009, from 66 units between August 2008 and January 2009 and increased by 338 units between December 2008 and January 2009. These figures cannot *a priori* all be attributed to cross-border workers returning.

Section 3: Towards a regional labour market integrated by the institutions of the Greater Region?

We have seen that the cross-border workers are not obviously the first victims of the current crisis. At least not so far. Let us now assume that there is an aggravation of the recession, one through which cross-border workers do indeed become the victims. In that case, would it not be better to reinvent a new system of governance for that internationalised market?

A newspaper article¹⁵ published in June 2009 has been sufficiently disquieting. The article evoked the concern felt by Jean-Pierre Masseret, President of the Region of Lorraine, on the subject of the risk incurred by cross-border workers from Lorraine working in Luxembourg of losing their jobs due to the economic crisis. Jean-Pierre Masseret, in a letter addressed to Luxembourg's Prime Minister Jean-Clause Juncker, asked (the latter) to invite all of the Greater Region's trade union organisations to a meeting of the executive heads of the Greater Region in order to take up the problem of cross-border workers who had worked in Luxembourg now returning to their own country.

That constitutes only one matter, but a particularly enlightening one demonstrating the necessity of coordinating at the level of the Greater Region impacts emanating from the Luxembourg labour market. The President of the Region of Lorraine was inviting in a certain way his partners in the Greater Region to tackle the problem of labour market internationalisation in Luxembourg and its consequences for neighbouring regions.

That example shows (us) to what extent Luxembourg's labour market could in the future be based on a new form of governance, one not limited only to the framework of Luxembourg but instead to all of the Greater Region. Is that a possibility or a chimera? In order, not so much to answer the question directly, as to open up a window on potential responses, let us now go into greater depth in this section on the institutional realities of the Greater Region and on its possibilities of creating a new form of governance for the internationalised labour market that Luxembourg represents.

“The Greater Region is a laboratory of Europe,” “a Europe in miniature” and “a pre-configuration of Europe,” are some of the expressions that can quite frequently be heard or read in conferences, in fashionable salons or from people with an immediate or a remote interest in the area referred to as the “Greater Region.” Sometimes one hears other remarks like “the Greater region is an empty shell,” or “nothing gets done there.”

And yet, seen from a closer perspective (up), we can state that each of these remarks is as wrong as the next. They convey a certain misconception of the legal and institutional realities, as we wish to show in the next few lines. We feel that in fact these two types of remarks above stem from an enormous misunderstanding, from real confusion between two very distinct notions: integration and cooperation. Integration is meant here in its political sense as a process by which independent entities voluntarily delegate or transfer some of their prerogatives and powers to one or more institutions. Cooperation, in turn, is a whole in which the components of a system work together to achieve certain global priorities.

In order to show this to the reader, we will consider the institutions of the Greater Region as well as those institutions’ jurisdiction and authority. After that, we will see how those institutions of the Greater Region that forge cooperative links can eventually forge other links, this time links of integration and more specifically on the labour market.

Space constraints do not permit us here to go into detail about the role and composition of the Greater Region’s institutions. We will only dwell on their jurisdiction.

The institutions of the Greater Region and their powers

The table below provides a summary of the powers of the Greater Region's institutions.

<i>Powers</i>	Intergovern- mental Commission	Regional Commission	Summit of Executive Heads	Interregional Parliamentary Council	Economic and Social Committee
Recommendations	X	X		X	X
Draft agreements	X	X			
Questions		X			
Reports		X			X
Proposals		X		X	X
Decisions			X	X	
Resolutions				X	X
Promotion				X	
Contributions				X	
Opinions				X	
Advice				X	X

A table like this prompts (us) to ask ourselves what the real content is of the powers reserved for institutions of the Greater Region. Strictly speaking, one cannot really speak of real options for action. These institutions are restricted, as it were, to:

- issuing **recommendations**;
- elaborating **drafts** of agreements;
- asking **questions**;
- writing and transmitting **reports**;
- making **proposals**;
- adopting **resolutions**;
- ensuring **promotion**;
- making **contributions**;
- issuing an **opinion**;
- providing **advice**.

The real authority of the institutions

Taking a closer look, the words used to list the powers of Greater Region institutions carry little weight. Such words do not reflect real decision making, real activity, carrying out in a collective thrust determined actions taken by those institutions. The latter are instead vested with powers that are more

those of consultation than of decision making. One would in particular have to note that in regard to the Interregional Parliamentary Council. The primary and inherent vocation of a parliamentary assembly is not to consult but to make decisions. The Greater Region does not after all function as the parliament of a state or even the European Parliament would be able to do. And for a good reason since that parliamentary council includes emanations of various different entities. The latter, with the exception of Luxembourg, are housed within other independent states. They therefore do not possess institutional and constitutional powers to act in concert like a real parliamentary assembly.

We find ourselves here, in fact, in a configuration where none of the member entities of the Greater Region have transferred or delegated to institutions of the latter any real decision making powers capable of producing decisions in common applicable to all of the entities. It is there that we find something to make reference to those notions of cooperation and integration. The situation of the Greater Region is, as described above, because it is cooperation that motivates its entities and not integration as is, for instance, the European Union. There is moreover no “treaty of the Greater Region” like the various treaties that exist since the Treaty of Rome was signed in 1957. One therefore grants the Greater Region powers that it does not possess because we imagine that, like the European Union, it is supposed to achieve integration!

The question is therefore one of asking if those institutions really possess any power to act. As one can see and understand, they are not vested with any real decision making powers. Why? A reading of the constitutional or founding texts of the member entities could provide us with the beginnings of an answer.

Let us, in effect, imagine allowing the entities of the Greater Region a function of political integration and not one of simple cooperation. It would then require those entities to sign international treaties in such a way as to extract themselves from the state straightjackets in which they are embedded. We will find that political integration by those means would almost be possible.

The constitutional texts of Luxembourg, Belgium and Germany in effect leave the prerogative to the state of Luxembourg as well as to federal Belgian and German entities to enter into international treaties. Unfortunately, it is not the same with France, a country in which a treaty cannot have the force of law and which therefore may only be approved by the Senate or the National Assembly. The Region of Lorraine does not even have the same powers as the other entities in the Greater Region.

One would have to conclude that international affairs remain the privileged domain of the states of which the member entities of the Greater Region comprise a part, albeit with some nuances. Luxembourg, not knowing any federalisation and being a state, is therefore with certainty the only holder of the power to enter into international relations or to delegate powers in such a framework.

As far as Belgium and Germany are concerned, they are federated entities capable of taking on international assignments under the powers imparted by their constitutional texts. The regions and communities in Belgium and the Länder in Germany possess such powers. We should furthermore note that on that aspect of federalism Belgium has gone further than Germany. The federated entities of Belgium do not need to obtain the agreement of the federal state in order to enter into international treaties while the Länder in Germany have to be given such clearance.

In France, by contrast, the central state remains sovereign and the regions have no powers in international affairs. Only the Senate and the National Assembly have the power to promulgate law. That is not the prerogative of the various regional councils.

Unlike the European Union to which the member states have delegated authority, the Greater region does not have any similar configuration. Only agreements between entities capable of exercising international powers are possible in the framework of the Greater Region, but it is impossible for the institutions of the Greater Region to do the same. Political integration by means of international treaties between all the entities of the Greater Region is likewise impossible due to obstacles posed by the French constitution. Actions conducted in the Greater Region are for that reason limited. The Greater Region is thus very much a process of cooperation and not one of integration.

The Greater Region and the economic crisis

Bearing in mind the alarm raised by Jean-Pierre Masseret in his letter to Jean-Claude Juncker, we might ask the question of what would become of the institutions of the Greater Region in case the economic crisis worsens and there are massive job losses by cross-border workers working in Luxembourg. One cannot imagine those institutions, despite their legal fetters, standing by passively without proceeding to make certain institutional approaches in tandem with such layoff developments. The institutions are not the only ones targeted. Within the Greater Region there are cross-border trade union and employers' associations: the Interregional Labour Council of the Three Frontiers (IRS) and the Cross-Border Employers' Association (APAT). These associations should also in future be capable of better synergies in order to act jointly ahead of time in taking care of cross-border workers getting through the crisis. There is no such thing at present. The only thing one finds are certain double membership phenomena between Luxembourg's trade unions and the Belgian, French and German trade unions sharing the same ideology. Nonetheless, this double membership does not really apply in case of layoffs. In short, amongst the industrial relations, partners' efforts will have to be made to increase the effective efficiency of these cross-border partners.

Section 4: Conclusions and approaches for consideration

We have found that there are instruments available within the Greater Region to take account of and perhaps even to take care of a new form of governance of the internationalised labour market that Luxembourg constitutes. But we have also found that the constitutional realities of the states whose entities make up the Greater Region may lead to a legal impasse to transfer that arena of cooperation into an arena of (clear) veritable political integration.

Nonetheless, the first section of the present article has shown us that the growing internationalisation of the Luxembourg labour market may in future years come to know different governance, one that takes account of the arrival in an independent state of a cross-border population that will become a majority. To this the issue will be added of Luxembourg's national sovereignty, which must be preserved.

If a new form of governance must be set up on the labour market, it will be by taking account of the agreement of this triple perspective: ensuring better representation of cross-border workers, introducing a type of decision sharing system between entities of the Greater Region relating to the labour market and preserving Luxembourg's national sovereignty. That is a very difficult assignment and even a frankly perilous one. The whole trick will basically consist of getting protagonists from different regions and countries together at the same table in order to ensure governing the labour market in one member of that area differently. At the present time, we can only suggest for consideration several approaches, more specifically the following ones.

First, one can imagine strengthening the role of the Interregional Parliamentary Council in such a way that the latter provides opinions that are targeted more at the way to integrate cross-border workers within the governance of the Luxembourg labour market. The Council could also create within itself a seventh commission based exclusively on the labour market.

One can also imagine the labour commissions present in the parliamentary bodies of Greater Region entities meeting together alongside the labour commissions of the national parliaments to which the Greater Region entities belong for the purpose of getting a better grasp on cross-border realities. These upper echelon bodies, enlarged by inclusion of regional components to the national ones, would be in a better position to stay mutually informed about the needs and decision making paths that Luxembourg should adopt to ensure better integration and better representation of border crossers.

Third, on the model of what is done between Belgium and Luxembourg, the national government of the country to which entities of the Greater Region belong, could occasionally meet to analyse the situation, the problems encountered and the reform approaches to be envisaged. Such meetings could

also bring together, as the case might be, the ministers of labour of the entities comprising the Greater Region.

The economic and social councils of the entities making up the Greater Region could meet together alongside of the Economic and Social Committee of the Greater Region in order to envisage better synergies and, especially, to propose solution strategies to better ensure representation of cross-border workers in official bodies in Luxembourg. Such an event recently took place between the Economic and social councils of Luxembourg and Lorraine.

These few approaches would eventually entail further internationalisation of how cross-border realities are perceived in Luxembourg and to suggest reform strategies aimed at integration and optimum representation of border crossers in Luxembourg, a country whose sovereignty will be preserved, but in a certain sense also “counselled” or even “accompanied.”

As far as actors in professional links in the Greater Region are concerned, the trade unions and the employers, we cannot but encourage them to make even more use of this new legal instrument recently put in place at the European level: European grouping of territorial cooperation (EGTC).¹⁶ They will do so in accordance and in symbiosis with the Greater Region’s institutions. We will also witness the emergence of agreements and projects likely to accompany cross-border victims through the crisis. Institutions and social partners will thus play a joint role in projects operating, for instance, to benefit unemployed cross-border workers and for their social reintegration and professional retraining.

The objective of EGTC is to facilitate and promote cross-border, transnational and interregional cooperation amongst its members. The grouping can admit member states, regional and local communities and/or entities of public law on a voluntary basis, in other words, actually all the “adjudicative” functions and those subject to public market laws.

EGTC’s powers are set in a mandatory cooperation agreement created on the initiative of its members. They decide if EGTC is a separate legal entity or if they wish to entrust its functions to one of its members. The powers of public authorities and police and regulatory powers are excluded from the agreement.

Within the bounds of its assigned powers EGTC acts on behalf and for the account of its members. It thus possesses the legal capacity attributed to corporate bodies by national legal systems.

EGTC may also be entrusted with the implementation of programmes that are co-financed by the European Community (Union) or any other cross-border cooperation operation with or without Community financial involvement. The members of an EGTC must be located on the territory of at least two member states.

The agreement clarifies the function, duration and circumstances for dissolving the EGTC. It is limited to the field of cooperation chosen by the members and clarifies their responsibilities. The applicable law for interpretation and application of the convention is that of the member state where its official headquarters are located.

The members adopt a provisional annual budget that also deals with in an annual report certified by independent experts. The members are financially liable pro rata to their contributions for any debts.

As can be seen, the EGTCs, by means of an initiative of the public authorities and institutions of the Greater Region allowing them to bring the social partners together in innovative projects able to overcome the national legal restrictions and, if needed, collaboration leading to integration, may turn out to be very useful in the event of a crisis and, more specifically, for the benefit of any eventual victims amongst cross-border workers employed in Luxembourg.

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¹⁵ "Masseret à Juncker: Inviter les syndicats," in *Le Quotidien*, 19 June 2009, page 4.

¹⁶ Regulation (EC) 1082/2006 of the European Parliament and of the Council dated 5 July 2006 on a European grouping of territorial cooperation (EGTC), Official Journal L 210 of 31 July 2006.



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