The Centre for
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Briefing Paper

Approaches to the COVID-19 Pandemic: Bordering on (non-) cooperation

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Introduction

This Briefing Paper is intended to offer some initial considerations on the extent to which existing or new channels of cross-border cooperation have been successfully activated in the face of the COVID-19 pandemic, which first appeared in the Chinese city of Wuhan in December 2019.[1] With over 200,000 dead worldwide at the time of writing, the initial outbreak spread rapidly to other parts of China, with cases soon detected in several other countries. "Outbreaks and clusters of the disease", as the European Centre for Disease Prevention and Control notes, "have since been observed in Asia, Europe, Australia, Africa and the Americas".[2]

The nature of this global virus has simultaneously given rise to calls for international cooperation and to the impulse for national self-preservation and isolationism. While the former can result, for example, in the World Health Organisation's creation of the COVID-19 Solidarity Response Fund,[3] the latter may lead to the closure of borders between neighbouring countries or the flexing of national financial muscle to secure scarce and sought after resources vital in the combat against the virus.

It is of course too early to come to definitive conclusions as to their ultimate significance, but it is possible to highlight potential instances of these seemingly contradictory impulses across the territory of the European Union, as well as within the more defined space of the island of Ireland. This is what this Briefing Paper sets out to do, beginning with an overview of the collaborative tendencies observable on the island of Ireland, before considering the extent these can be seen in EU Member States.

COVID-19 on the island of Ireland: The North-South response

Arguably the two jurisdictions on the island of Ireland should be ideally placed to collaborate on matters of public health. The restoration in January 2020 of a functioning Northern Ireland Assembly and Executive meant that after a three-year absence the North South Ministerial Council (NSMC) would be able to be fully operational once again. Established as a core strand of the 1998 Belfast/Good Friday Agreement, the NSMC brings together the two governments on the island of Ireland to "develop consultation, co-operation and action within the island of Ireland",[4] and health is one of the six areas of co-operation it is responsible for. However,

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[1] This Briefing Paper was authored by Martin Unfried (Senior Researcher, Institute for Transnational and Euregional cross border cooperation and Mobility/ITEM, Maastricht University), and Dr Anthony Soares (Director, Centre for Cross Border Studies).

[2] European Centre for Disease Prevention and Control, "COVID-19: Overview", https://www.ecdc.europa.eu/en/covid-19-pandemic [last accessed 20/04/2020].

[3] See World Health Organisation, https://www.who.int/emergencies/diseases/novel-coronavirus-2019/donate [last accessed 20/04/2020].

[4] North South Ministerial Council, https://www.northsouthministerialcouncil.org/north-south-ministerial-council [last accessed 26/04/2020].

notwithstanding the first cases of COVID-19 occurring within 24 hours of each other in Northern Ireland (28 February) and the Republic of Ireland (29 February), there have as yet been no *formal* meetings of the NSMC to address the spread of the pandemic and to discuss opportunities to co-operate in fighting the virus, although Ministers from both governments met for discussions on 14 March in Armagh, which is where the NSMC Joint Secretariat is located. Indeed, the lack of a *formal* meeting of the NSMC comes despite the first COVID-19 case confirmed on the island of Ireland being of a woman returning from holidays who travelled to Northern Ireland by train after arriving at Dublin airport.

The geographical reality of the island of Ireland appears to translate in many minds as being naturally conducive to both administrations adopting a common and collaborative approach in facing a public health crisis of the nature of COVID-19. It was, in fact, the approach suggested by government ministers (including the Irish Taoiseach and Northern Ireland's First Minister and Deputy First Minister) at their meeting in Armagh on 14 March, according to a statement released by Northern Ireland's Executive Office. It notes: "It was agreed that everything possible will be done in coordination and cooperation between the Irish Government and the Northern Ireland Executive and with the active involvement of the health administrations in both jurisdictions to tackle the outbreak".[5]

And yet, the perception has been of a lack of meaningful coordination between Dublin and Belfast, leading to lockdown measures being introduced at different times or in different ways in the two jurisdictions. This meant, for example, whereas Ireland's Department of Education and Skills announced the closure of schools, pre-schools and higher education settings on 12 March, it would not be until 18 March that Northern Ireland's First Minister and Deputy First Minister would announce that all schools in their jurisdiction would close from 23 March. In the intervening period, and seeing what they interpreted as prompt action from the Irish Government, there were many in Northern Ireland who saw the Belfast administration's failure to implement similar measures at the same time as evidence of slavishly following the approach adopted by the Government in London.

"The differences, particularly over school closures", as Michael Tomlinson points out, "caused political friction in the North but the key policy difference was revealed on March 12th when the British announced the 'contain phase' was over and that testing for Covid-19 infection would henceforth largely be confined to hospital admissions. Contact tracing ceased. [...] Meanwhile the Irish Government moved in the opposite direction".[6] Bearing in mind that health is a devolved matter, the Northern Ireland administration chose to follow the application of the more limited testing regime introduced by London.

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[5] The Executive Office, "Meeting of Irish Government and Northern Ireland Executive Ministers concerning North South cooperation to deal with Covid-19" (14 March 2020), https://www.executiveoffice-ni.gov.uk/news/meeting-irish-government-and-northern-ireland-executive-ministers-concerning-north-south-cooperation [last accessed 26/04/2020].
[6] Michael Tomlinson, "Coronavirus: Ireland is one island with two very different death rates", *The Irish Times* (22 April), https://www.irishtimes.com/opinion/coronavirus-ireland-is-one-island-with-two-very-different-death-rates-1.4234353 [last accessed 26/04/2020].

Given the ongoing discord provoked by Brexit and its contested nature in Northern Ireland, coupled with the underlying divisions inherent to Northern Ireland's post-conflict context, it is perhaps unsurprising that differences on approaches to the COVID-19 pandemic can be interpreted as evidence of entrenched political beliefs overriding the public good. Thus, for Barry Colfer, "While no political party would openly use the health emergency to score political points, it is apparent that [Northern Ireland's First Minister, Arlene] Foster and the [Democratic Unionist Party] sought to assert the separateness of Northern Ireland from the Republic, while Sinn Féin made the case for convergence".[7] If they are indeed present, such circumstances of mutual suspicion across the political divide in Northern Ireland would not be favourable to cross-border cooperation and coordination in response to the COVID-19 crisis.

But the signing of a Memorandum of Understanding (MoU) between the two administrations appears to contradict this pessimistic portrayal. Published on 7 April, the MoU is presented as an outworking of the meeting of ministers from both governments in Armagh on 14 March, and as an expression of "their mutual willingness to promote cooperation and collaboration in response to the COVID-19 pandemic".[8] It sets out how cooperation will focus on seven key areas: modelling of the spread of COVID-19; the development of public health and non-pharmaceutical measures in response to the pandemic; common public messages; working together on relevant programmes of behavioural change; research; collaboration on ethical frameworks; and supporting cooperation in areas such as procurement.

Crucially, in terms of the development of public health responses, the MoU also states that: "Consideration will be given to the potential impact of measures adopted in one jurisdiction on the other recognising that the introduction of such measures may differ reflecting differences in COVID-19 transmission at different stages of the public health response". While Michael Tomlinson has highlighted this as evidence that the island of Ireland has come to be seen as being made up of two epidemiological units,[9] missing out on the opportunity to fully exploit the potential for cross-border cooperation, it nevertheless also points to the value of assessing what the impact will be on the other jurisdiction as public health measures are introduced on one side of the border, and that those impacts are communicated to citizens.

Given the deadliness of the COVID-19 pandemic and the economic devastation it has brought, differences in the approaches to combating its spread taken by neighbouring jurisdictions are bound to raise doubts and provoke anxieties in citizens. The stakes are incredibly high, so as people living on one side of a border see the authorities on the other side introducing measures that are not replicated in their own jurisdiction, their fear may be that their own government is not properly protecting them from the virus. They may also judge that

[7] Barry Colfer, "The Covid-19 pandemic on the island of Ireland", *The UK in a Changing Europe* (31 March 2020), https://ukandeu.ac.uk/the-covid-19-pandemic-on-the-island-of-ireland/ [last accessed 26/04/2020].

[8] Department of Health, Ireland, and Department of Health, Northern Ireland, "Memorandum of Understanding. COVID-19 Response – Public Health Co-operation on an All-Ireland Basis Between: The Department of Health, Ireland (and its Agencies); and the Department of Health, Northern Ireland (and its Agencies)" (7 April 2020), https://www.health-ni.gov.uk/sites/default/files/publications/health/MOU-NI-RoI-Covid-19.pdf [last accessed 27/04/2020].

[9] Michael Tomlinson, "Coronavirus: Ireland is one island with two very different death rates".

businesses and employees in the other jurisdiction are receiving greater levels of support or that, where they are cross-border workers faced with unemployment, they are not being treated fairly. These reactions may be exacerbated in the context of the island of Ireland, where citizens in Northern Ireland, for example, may doubt the logic of following the approach taken by the authorities in Great Britain rather than that of the Irish authorities, especially given existing divisions linked to questions of identity and Northern Ireland's constitutional status.

Such reactions are also perhaps more likely if citizens are unaware of pre-existing channels of cross-border cooperation. These are alluded to in the Memorandum of Understanding between the health authorities of the two jurisdictions on the island of Ireland, which notes how "Cooperation on the public health-driven response to COVID-19 will build on existing and long-established cooperation on the island of Ireland between the Participants and the health services including across cancer, ambulance and congenital heart services, and the strong pre-existing cooperation between the offices of the Chief Medical Officers in both jurisdictions". In the absence of what would be perceived as significant and widely publicised examples of cross-border cooperation, and in a context where existing cooperation is little known, the public may wrongly assume that the two jurisdictions on the island of Ireland are working from a blank slate when it comes to adopting all-island approaches to COVID-19. However, in order to address this issue, it would be important for the Memorandum of Understanding to result in genuine cross-border and all-island cooperation rather than mere consultation and dialogue.

Increased coordination and cooperation between the two governments on the island of Ireland could address the (unforeseen?) consequences of the introduction of public health protection measures with even what may be perceived to be minor divergences, or that cannot be applied to those crossing the border. An example of this relates to restrictions on travel, where the Republic of Ireland's measures to reduce the spread of COVID-19 included emergency legislation limiting people to travel within 2kms of their homes for the purpose of exercise or the purchase of essential supplies. Similar measures were introduced in Northern Ireland, but without the inclusion of a specific distance. In any case, the measures are not enforceable on an all-island basis, meaning that intensive efforts to encourage people to refrain from unnecessary travel within the Republic of Ireland could not prevent people from Northern Ireland insistent on travelling for leisure purposes into the jurisdiction, leading to headlines such as "Donegal locals 'angry and frustrated' that Northern Ireland day trippers are not covered by laws".[10]

The ultimate success of public health measures aimed at combatting the spread of COVID-19 will rely on the willingness of citizens to voluntarily abide by them rather than on enforcement. In its approach to the imposition of travel restrictions in the Republic of Ireland, for example, the policy of the Garda (Irish police) "has been to engage, explain, encourage

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[10] *thejournal.ie* (27 April 2020), https://www.thejournal.ie/donegal-covid-19-5084585-Apr2020/ [last accessed 27/04/2020].

and only if necessary enforce the emergency legislation".[11] A similar approach is being taken by the Police Service of Northern Ireland. Although we have witnessed attempts by Irish police to discourage citizens from crossing the border into the Republic of Ireland at traditionally intensive periods for cross-border leisure transit, such as the recent Easter holiday period,[12] these cannot be seen as border closures. As the imposition of border closures would be politically divisive given the context on the island of Ireland, other means have to be found to prevent the spread of COVID-19, which implies the introduction of a more sustained all-island or cross-border approach. The institutions and channels of existing cross-border cooperation already exist to do this, but these need to be more visibly and forcefully brought into play.

The Wider Context: Closing of borders an expression of national helplessness[13]

While the border between Ireland and Northern Ireland has remained open during the current crisis, the physical reality of the recent closure near Maastricht of the Dutch border with Belgium cannot be denied. The Belgian government put up barriers to prevent people from entering their country. And yet, for five years Maastricht University's Institute for Transnational and Euregional cross border cooperation and Mobility (ITEM) has been working to reduce the existing legal and fiscal problems in its cross-border Euregion of Meuse-Rhine, which encompasses the territories of three nations: Belgium, Germany and the Netherlands. Nevertheless, the border closed; the road closed. This is of course the opposite of what successful Euregional integration is meant to look like.

Why did this happen? One could of course say because of health protection, because closing the border helps to reduce the number of infections. But that is probably only partially true. With hindsight, it could be argued that entry of the infection into the EU should have been prevented at an earlier stage. Or when the first cases appeared, individual hotspots in the EU should have been closed off, as was done in Italy's northern region, although too late. However, the European hotspots had little to do with national borders. The German *Landkreis* of Heinsberg may have been essential in the spread of the infection in the Dutch town of Sittard on the other side of the border, but it was even more so for the rest of North Rhine-Westphalia, the German state where Heinsberg is located. In this respect, closing territories at the local level in a national context has apparently very often not been an option.

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[11] Paul Reynolds, "Dept of Health: No anomaly in virus regulations but possible issue with NI citizens", *RTE* (26 April 2020), https://www.rte.ie/news/2020/0425/1134822-garda-headquarters-restrictions/ [last accessed 27/04/2020].

[12] See, for example, Suzanne McGonagle, "Coronavirus border lockdown", *The Irish News* (9 April 2020), http://www.irishnews.com/coronavirus/2020/04/08/news/border-lockdown-1896245/ [last accessed 27/04/2020].

[13] This section is an adapted version of an earlier text by Martin Unfried, "The closing of national borders within the EU is a reflex and not the most effective instrument for health protection" (27 March 2020), https://www.maastrichtuniversity.nl/blog/2020/03/item-closing-national-borders-within-eu-reflex-and-not-most-effective-instrument-health.

It appears, that the closure of the border between Germany and Belgium and Belgium and the Netherlands became the only viable option. It is an expression of national helplessness faced with the lack of other means of coordination.

For instance, it was apparently not possible for countries to coordinate the procurement and exchange of testing material and other necessary supplies in order to test as many persons as possible in the most affected regions, nor did it seem possible to organise early assistance for northern Italy from other Member States. The question therefore arises as to whether health systems that are completely national in scope are equipped to meet the challenge of a cross-border crisis.

ITEM will analyse at a later stage to what extent the EU took action in the area of procurement of materials and respiratory equipment, or with respect to the coordination of hospital capacity. According to a "Q&A" of 13 March 2020 on its responses to coronavirus,[14] the European Commission had launched an accelerated joint procurement procedure with 26 Member States.[15] According to this, the Commission was purchasing equipment based on the EU Civil Protection Mechanism (rescEU). This would lead to the first purchases by the beginning of April, if approved by Member States. Nevertheless, since this action came rather late, the overall assumption is that measures at the EU level were prevented because it did not have the necessary competence. This is not surprising: according to Article 168 of the Treaty on European Union, in matters of public health the Union can only act *in support* of Member states; cooperation in relation to public health is entirely dependent on their willingness.

Another assumption is that even well integrated neighbouring countries with cross-border governance systems, such as the Scandinavian countries and their Nordic Council, seem to have limited potential for a coordinated response to a crisis like the one we are currently facing. For example, Denmark has closed the border with its neighbour Sweden out of concern for its own health care system. What the Benelux as an organisation was able to contribute during this crisis will be also a research topic for the future. The same goes for the role of cross-border entities like Euroregions or Eurodistricts and the normally well-functioning cross-border networks of hospitals and emergency services such as EMRIC in the Meuse-Rhine Euregion.[16]

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[14] European Commission, "European Coordinated Response on Coronavirus: Questions and Answers" (13 March 2020), https://ec.europa.eu/commission/presscorner/detail/en/QANDA_20_458 [last accessed 20/04/2020].

[15] The UK was also invited to participate in this initiative, but failed to do so. See, for example, *The Guardian*, "UK discussed joint EU plan to buy Covid-19 medical supplies, say officials", https://www.theguardian.com/world/2020/mar/30/uk-discussed-joint-eu-plan-to-buy-covid-19-medical-supplies-say-officials [last accessed 20/04/2020].

[16] EMRIC is the Euregion Meuse-Rhine Incident control and Crisis management collaboration. See https://www.emric.info/emric/en/citizens/what-is-emric [last accessed 20/04/2020].

So why was the border between the Netherlands and Belgium closed to everyone without "essential" reason for crossing it? Not so much because of the number of coronavirus cases on both sides of the border, and rather because of the lack of coordination of national measures. When the shops closed in Belgium, Dutch stores remained open. So Belgians travelled to Maastricht in the Netherlands to shop; and when much stricter measures were already in force in Belgium, Dutch visitors apparently took the view that these did not apply to them.

Was that predictable? Actually, it was. For many people, the Euregion is part of their normal daily life, where borders are hardly noticed. Therefore, if drastic, unilateral measures are introduced with such speed that information about them cannot reach the people quickly enough, problems will arise. However, in a promising move the government in North Rhine-Westphalia announced the creation of a cross-border task force with the Netherlands and Belgium.

The example of Austria shows the limited effects the closing of national borders has had so far in tackling the spread of the virus. The government had closed the border with Italy at an early stage, and thus also with South Tyrol (part of an active Euregion). However, in the two ski resorts in the *Austrian* Tyrol, which probably contributed massively to the spread of the virus, the lifts were shut down far too late and, crucially, unrestricted access from the rest of Austria and to Bavaria continued for a long time.

The same pattern of a lack of cross-border coordination was evident throughout Europe. When one border after another was closed, neighbouring countries were rarely coordinating the measures they were introducing in their respective jurisdictions. It was rather a case of every nation for itself. As a result, in mid-March there were more than 50 kilometres of trucks held up in traffic jams at the Polish border with Germany and chaotic conditions for drivers. By the final days of March, the German-Dutch border was apparently the only one within the EU where no controls were in place. Many borders had completely closed, even for cross-border commuters such as those who travel from Germany to work in the Czech Republic.

Somewhat belatedly good news in terms of European solidarity began to emerge: Italian patients are being treated in Saxony, with French patients from Alsace being treated in Baden-Württemberg. It will be interesting to understand how this cross-border cooperation has been made possible. Every year ITEM presents the its Cross-border impact assessment,[17] and this year ITEM will investigate these kinds of questions: what has been the impact of the Coronavirus crisis on life in border regions and the what have been the effects of cross-border

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[17] See https://www.maastrichtuniversity.nl/news/item-cross-border-impact-assessment-2020-corona-mainly-controls-cross-border-situation.

coordination, or non-alignment, on the response to the crisis. ITEM will publish the results of the report in November of this year.