

THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

Resolution 449 (2019)¹

Fair distribution of taxes in transfrontier areas: potential conflicts and possibilities for compromise

1. Transfrontier working, the free movement of labour across borders, is a vital aspect of European co-operation and integration, all the more so given that a third of Europe's citizens live in border areas. The Council of Europe, including its Congress of Local and Regional Authorities, has for many years been a pioneer in promoting this co-operation, working to change Europe's internal borders from barriers to bridges, opportunities for co-operation to improve the quality of life for citizens on both sides of the border.

2. But while progress has been made on many of the obstacles to such co-operation, the issue of the equitable distribution of transfrontier worker tax revenues on both sides of the border remains to be solved.

3. While Council of Europe member States generally apply the rule laid down in Article 15 of the *Model Tax Convention on Income and on Capital* of the Organisation for Economic Co-operation and Development, according to which transfrontier workers pay tax at their place of work, the growth in transfrontier working in recent years has highlighted the need to add to this practice the fair distribution of tax revenue, on both sides of the border, to benefit both the place of employment and the place of residence.

4. The European Union has no common policy on this, despite having affirmed the need to establish a common principle on cross-border taxation as long ago as 1993 in European Commission Recommendation 94/79/EC of 21 December 1993 on the taxation of certain items of income received by non-residents in a Member State other than that in which they are resident. In the absence of a common approach, the response to this problem remains the responsibility of the authorities of each country, which has led to a multiplicity of bilateral agreements.

5. In some cases, systems of tax retrocession or financial compensation have been adopted to cover the excess of expenses (such as those for schools and other infrastructure) borne by the place of residence. In other cases, no agreement has been concluded, leaving the local and regional authorities of the places of residence bearing costs much higher than those borne by the places of employment.

6. As a result, there are regions in which the financing of public services in border areas is woefully inadequate, as a result of this exclusive collection of taxes by the fiscal authority of the country of employment. This can cause serious tensions for the communities concerned and affect their

ability to invest because of the budgetary pressure linked to demographic change, exacerbated by the labour needs of the neighbouring country.

7. The risk of further aggravation of such unbalanced cross-border development is a challenge for European decision makers. A line that divides rich and vibrant centres, where jobs and wealth are concentrated, from “dormitory suburbs”, which are characterised by impoverished communities in some regions, is unsustainable in the long run. The unequal distribution of the burdens and benefits of employment can only weaken interregional links on the European continent and undermine territorial cohesion.

8. In this context, it is necessary to organise and further the debate on tax policy in cross-border areas, accepting that the place of taxation is less relevant than the need for co-operation and agreement between the authorities concerned, and the need to identify new solutions to this problem.

9. For this debate to yield results, substantial progress needs to be made to improve knowledge and understanding of this issue, through extensive research and data gathering, based on common indicators.

10. In view of the above, the Congress of Local and Regional Authorities of the Council of Europe,

a. bearing in mind:

i. the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No. 106, Madrid Convention) of 21 May 1980, and its additional protocols (ETS Nos. 159, 169 and 206);

ii. Congress Resolution 363 (2013) on prospects for effective transfrontier co-operation in Europe;

iii. the report by the Foundation for the Economy and Sustainable Development of the Regions of Europe on the fair distribution of taxes and charges in cross-border areas² (December 2018) and the seminar it organised in October 2018 in Geneva, which gathered together stakeholders from the targeted area;

b. concerned about the problems of financing essential public services, including education, kindergartens, social housing and communications infrastructure, in certain border areas;

c. convinced that stronger relations and partnerships between dynamic centres and areas of residence are important pre-conditions for creating virtuous business cycles, environmental performance, territorial cohesion and social sustainability in the member States of the Council of Europe;

d. convinced of the viability of long-term cross-border strategies based on the sharing of the fruits of labour to develop common infrastructure;

e. concerned about the dynamics of tax competition between member States and the need to ensure that certain regions and municipalities remain attractive places to live and work;

f. resolved to guarantee the principle of non-discrimination and to avoid double taxation,

g. invites the local and regional authorities in the places of residence of transfrontier workers in Council of Europe member States to:

- i. support the technical, scientific or linguistic training of their border populations to enable them to make better use of cross-border job opportunities;
- ii. abolish barriers to cross-border mobility;
- iii. take into account the evolution of teleworking, which can reduce the need to travel, by studying the measures that should be taken in order to make it attractive for both employees and companies;

h. invites the local and regional authorities in the places of employment of transfrontier workers in Council of Europe member States to:

i. promote co-development as a common goal, with a view to supporting economic growth and equitable distribution of the resulting tax revenues, and using them to provide an improved quality of life at local level;

ii. contribute to the financing of the local public services used by these workers in their places of residence;

i. invites national associations to support research in this area, including data collection and the development of common indicators.

1. Debated and adopted by the Congress on 29 October 2019, 1st sitting (see Document [CG37\(2019\)10](#), explanatory memorandum), rapporteur: Karl Heinz LAMBERTZ, Belgium (R, SOC).

2. “Le juste partage de la fiscalité et des charges en zone frontalière” exists only in French.