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Michael Frey, *Grenzüberschreitende Daseinsvorsorge im deutsch-polnischen Grenzraum: Zweisprachige Expertise zu rechtlichen und politischen Rahmenbedingungen (Cross-border public services in the German-Polish border region: Bilingual expertise on legal and political framework conditions)*, Universitätsverlag Potsdam, 2023, pp. 80.

This report published in the series “Discourse” by the *Institute for Local Government Studies* at the University of Potsdam has thankfully been published in both Polish and German. This forms a good basis for a more in-depth scientific debate on the legal questions raised, which concern not only legal professionals in Poland and Germany but also many political scientists like the author of this review.

The analysis begins with an analysis of the legal foundations of the cross-border “Daseins-vorsorge.” The author aptly describes this term, which is central to the German debate on the issue, as a “colourful” political guiding concept (according to Veith Mehde). EU law, on the other hand, does not have a corresponding term, it refers instead to the term “services of general economic interest.” This establishes a different regulatory structure that is primarily oriented towards the internal EU market. It leads to “systemic breaks and complex individual case reviews, which can become amplified in cross-border public services” (p. 34). The author concludes that this “may not prevent the development of cross-border public services, but can certainly complicate or delay it.” For cross-border public services, the freedom to provide services (Art. 56 ff. TFEU), the state aid law (Art. 106 ff. TFEU), the (EU) procurement law (directives based on Art. 114 TFEU), and the competition law (Art. 101 f. TFEU) play an important role.

Furthermore, the author of this report analyses the specific legal framework for cross-border public services in Germany and Poland. But the spectrum of this issue is far too broad. Therefore, it is welcomed that he makes its practical implementation visible through two short illustrative examples on the cross-border emergency services and the health sector.

The basis for German-Polish cooperation in the field of cross-border emergency services is a cooperation agreement between the state of Brandenburg and Poland from August 30, 2021. It empowers the German counties and the Polish voivodeships to establish cooperation agreements for this kind of services. So far, three of such agreements have been concluded: between Vorpommern-Greifswald and West Pomerania (2020), between Märkisch-Oderland, Oder-Spree, Spree-Neisse and the county free cities of Frankfurt (Oder) and Cottbus and Lubusz Land (2021), and between Märkisch-Oderland and Uckermark and West Pomerania and Lubusz Land (2025). Afterwards, German and Polish rescue services will be granted the same special rights and road privileges in the respective neighbouring countries as their own national rescue services. This makes an important contribution to strengthening the resilience of the public rescue service in the border region.

The cross-border health cooperation has gained significant importance in recent years. For example, in some hospitals in the state of Brandenburg, actually more than 30% of the employees come from Poland, including many doctors, nurses, and midwives. Many 100 caregivers from Poland also work in the care services, including entire teams in outpatient intensive care. Together with the German and other foreign specialists, they play a central role in inpatient healthcare in the border region. That became painfully clear during the COVID-19 pandemic, as the state of Brandenburg was particularly hard hit by the temporary border closure imposed by

Poland in March 1990.¹ Since then, better preparation for such health crisis situations in border areas has taken precedence. Michael Frey proposes the establishment of a cross-border coordination office as a continuation of the “Trinational Competence Centre for Health Projects,” which was founded in 2016 in the German-French-Swiss border area TRISAN. This office should connect emergency services, intensive care providers, and health insurance companies. A good proposal that should be implemented quickly.

In his report, the author also presents legal considerations regarding the further development of the four Euroregions at the German-Polish borders. These are currently cross-border entities based on a cross-border contract below the level of a state treaty without their own legal personality. Their Polish and German members act “as their carriers in the respective national legal forms (e.g., as associations). Therefore, tasks of public welfare cannot be taken on by them directly, but at best by seconded employees who then continue to act as parts of their carrier administration” (p. 47). Depending on the degree of task delegation and the sovereign quality of the tasks, the Euroregion could indeed act as an ‘umbrella organization’ for employees dispatched for this purpose from the relevant authorities. It would be sensible to give the umbrella organization its own legal personality to facilitate the administrative processes required for this, or alternatively, to have one of the existing partners lead these tasks. Furthermore, the author encourages considering a “comprehensive approach for the entire border region” (p. 48). From the author’s perspective, there currently remains primarily a treaty-based solution, given that the competencies are essentially left with the member states, “which would, however, also need to be willing to cede sovereign rights for the improvement of cross-border public services” (p. 49).

The author rightly calls for further promoting the active involvement of civil society actors through a “bottom-up” approach in a Europe of border regions. This could activate social capital to address the challenges in border areas. However, a coordinated ‘top-down’ approach will also be necessary, as current issues regarding the limitation of illegal migration in border areas clearly demonstrate. Therefore, both will be desirable in the future. Of course, legal regulations will also play a role. However, the decisive factor remains the political will of the political decision-makers on both sides.

Despite numerous legal regulations, the cross-border provision of public services, particularly in rural border regions with great potential, is often – as the author underlines – “significantly hampered by various legal and administrative obstacles, such as incompatible national legal frameworks or additional complex coordination processes resulting from heterogeneous competence and responsibility regulations, as well as political, cultural, and socio-economic factors” (p. 24). To improve the legal dimension, the author suggests stronger anchoring of exception regulations and experimental clauses for the border area in the specialized laws of the involved countries (p. 43). Additionally, he presented the idea of “a cross-border one-stop agency in the sense of the open government approach for the respective fields of cross-border public services” (p. 46).

Not least because of these interesting proposals, the advisory report discussed here on cross-border public services in the German-Polish border area is highly recommended as reading for policy deciders, social scientists and practitioners.

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¹ In particular, the 14-day quarantine requirement for those returning to Poland made commuting between the two countries temporarily impossible even for healthcare personnel. During this time, the Brandenburg state government tried to support the accommodation and catering for commuters from Poland who temporarily relocated to Brandenburg with a short-term funding program amounting to 9.3 million euros.

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