

Fair mobility tool, diagnostic information and advisory tool for (potential) cross border workers

Belgium

GENERAL INFORMATION	
Name of the organisation	Interregional Trade Union Council Schelde-Kempen (IRTUC SK)
Type of organisation	Social Partner
Address	Former contact address: Nationalestraat 111 – 2000 Antwerpen (Belgium) New contact address: Pelikaanstraat 4 – 2018 Antwerpen (Belgium)
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Topic of the good practice	Undeclared work
Geographical focus	Cross-country (please specify) Belgium, The Netherlands
Duration	1/1/2021
Summary of the good practice	Promotion of fair mobility, sustainable employment and reduction of the risk of undeclared work in the cross-border region. Various service providers, such as trade unions, Border Information Points (GIP's), etc., are increasingly confronted in their day-to-day work with questions and issues regarding the applicable legislation on social security, taxation and labour law. Providing clear information on these matters is therefore essential. In fact, proper provision of information is necessary for citizens to ensure the sustainable exercise of their European right to free movement as workers.

OBJECTIVES AND ACTIVITIES

Background/context

What challenge, need or gap were you trying to solve or respond to?

Why was this issue relevant or urgent in your context (sector, region, country)?

- ▶ The Fair Mobility Tool (FMT), developed on behalf of the interregional trade union councils (IVRs) linked to the Netherlands and Belgium, aims to contribute to this objective. In addition, the tool is also intended to serve as a monitoring instrument designed to provide insight into the conditions for fair mobility. The tool is intended to be a daily resource enabling a worker in the border region(s) – between Belgium and the Netherlands – to easily check, based on their work situation, whether their working conditions comply with the applicable regulations.
- ▶ The FMT is directly aligned with the objectives and eligibility criteria of the ESF+ Regulation. Among other things, this Regulation focuses on facilitating the cross-border mobility of workers. After all, the European network of employment services is intended to improve the functioning of labour markets by facilitating the cross-border mobility of workers, in particular through cross-border partnerships, and by making labour market information more transparent.

Objectives

What were the main goals of this practice (e.g. better compliance, faster processing, improved worker protection)? (Please limit to three)

Who or what were these goals intended to help or change? (Please limit to three)

- ▶ The FMT is a tool that enables a cross-border worker to make a general qualitative assessment of a work (or job vacancy) situation, in the light of the principles of fair mobility.
- ▶ These recommendations for action are therefore visually supplemented by a stop light or flashing light function to encourage the user to seek personal advice from the support service providers.

Main activities

What were the main steps or actions you carried out to put the practice into effect?

Were any tools, materials, partnerships, or processes created?

- ▶ Each scenario in the FMT is represented by a unique code generated through completion of the questionnaire. Based on the selected cross-border employment situation, the tool provides conclusions on the applicable labour, social security and tax legislation, together with warnings about potential legal or administrative risks.

- ▶ The basic version of the FMT, developed in 2020, contains 176 scenarios based on combinations of key employment variables, including employment status (employee, civil servant or self-employed), contract type (permanent or fixed-term), working arrangements (full-time or various forms of part-time work), posted work, and cross-border job seeking while unemployed.
- ▶ Following practical experience gained through cross-border services, the FMT was expanded in 2022 with two additional scenario clusters: employment in multiple countries under different employment status, and working while simultaneously receiving social benefits or a pension. This extension significantly broadened the tool's coverage of flexible cross-border employment situations between Belgium and the Netherlands.
- ▶ For individuals working simultaneously in two countries, the tool analyses all relevant combinations of employment status, including employee, civil servant and self-employed activities, assuming that one country of employment is also the country of residence. This comprehensive approach enables the FMT to address a wide range of complex cross-border employment scenarios.
- ▶ The FMT is designed as a practical, web-based information tool for workers in the Belgian-Dutch border region. It enables users to determine which labour, social security and tax regulations apply to their personal employment situation while identifying potential compliance risks. Rather than providing personalised advice, the tool functions as a monitoring and awareness instrument by highlighting issues that may require further action and directing users to the appropriate advisory services.
- ▶ The effectiveness of the FMT is measured by its ability to support informed decision-making. Its behavioural objective is to help users understand the legal consequences of their employment situation and recognise when professional advice is needed. For example, users may decide to consult a tax or legal

	adviser after identifying possible implications of cross-border employment. This objective determines both the type of information presented and the manner in which it is communicated. ► The FMT has three main objectives: to identify the regulations applicable to a user's situation, to explain how those rules affect the individual, and to encourage appropriate action through a warning function that refers users to specialised advisory services when necessary. Consequently, the FMT should be regarded as an information and guidance tool rather than an advisory or financial planning instrument.
Funding/organisational resources	Since 1 April 2022, the European Social Fund Plus (ESF+) direct funding was used. Before 1 April 2022, EaSI funding for social innovation was used. From 2024 the service will continue (maintenance) with funding from the IVR Schelde-Kempen.
PARTICIPATION	
Stakeholders involved Organisations or entities actively contributing to the design, implementation, monitoring, or support of the good practice (e.g. labour inspectorates, social security institutions, trade unions, employers' associations, or other).	► IVR Schelde-Kempen is a partnership between the following trade unions: Belgium: ► ACV: Algemeen Christelijk Vakverbond ► ABVV: Algemeen Belgisch Vakverbond ► ACLVB: (Synova:Vrije vakbond) Algemene Centrale der Liberale Vakbonden van België ► The Netherlands: ► FNV: Federatie Nederlandse Vakbeweging ► CNV: Christelijk Nationaal Vakverbond ► The tool received content support from ITEM (Institute for Transnational and Euregional Cross-Border Cooperation and Mobility), Maastricht University and technical support from ANVIL (Antwerp).
Target groups	(Potential) cross-border workers and jobseekers

Main groups or categories that the practice is directly aimed at, who should receive its services or who engage with it (e.g. employers, mobile or posted workers, labour inspectors and social security officers, or other).	Service providers (e.g. trade unions, cross-border information points, public employment services, EURES advisers, employer organisations, HR and recruitment agencies, social security institutions, tax and legal advisers) Employers
Final beneficiaries Individuals or groups that ultimately benefit from the outcomes of the practice, even if they are not the direct target or user (e.g. mobile or posted workers, vulnerable workers at risk of exploitation, employers benefiting from clearer rules or reduced admin burdens, or other).	Cross-border workers and jobseekers Service providers and experts from competent authorities Employers who employ cross-border workers
GOOD PRACTICE CRITERIA	
Achievements and outcomes What specific results did the practice achieve? (e.g. How many workers or employers were reached, number of publications created? What processes became faster?) What kind of broader benefits did it bring? (e.g. Did it improve understanding of rights and obligations, enhance cooperation between authorities, or reduce legal uncertainty and inconsistent application of rules?)	▶ The Fair Mobility Tool responds to a general trend where digital and physical services reinforce each other. ▶ If there is a need for more customised services, further referral is appropriate. ▶ The FMT reduces the risk of undeclared work, removes perceived cross-border obstacles and actively promotes Fair Mobility. ▶ The FMT removes the barriers of starting work in another country and leads to less dropouts during the initial stages of working across the border.
Cost effectiveness How did you keep costs low while still achieving results? (e.g. Did you reuse existing tools, automate processes, or share resources across teams?) Can you show that the outcomes were worth the investment? (e.g. Did small changes lead to big improvements, or were expensive tools avoided?)	▶ At present, the costs related to the FMT are limited mainly to its maintenance, which is carried out using our own available resources. This includes the ongoing management, monitoring and upkeep required to keep the tool functional and accessible for users. ▶ However, any structural changes, technical improvements or future expansions of the FMT's scope will require additional financial resources. Further development, such as adding new scenarios or functionalities, may therefore depend on securing appropriate funding to ensure the long-term sustainability and effectiveness of the tool.

Transferability

What are the key features that make this practice work well? (e.g. a digital platform, clear guidelines, a joint inspection process, or strong coordination)

What would another country or organisation need to make this work for them? (e.g. certain laws, IT systems, or staff training)

- It should be emphasised that the potential of the FMT is not limited to the Netherlands-Belgium relationship but can be extended further within the EU. In a potential extension relating to Germany, it would be possible to build on what has already been implemented in the FMT with regard to the Netherlands-Belgium relationship.
- As noted above, the FMT is based primarily on the fundamental rules regarding labour law, social security and tax law at European and international level, i.e. the Rome I Regulation, Regulation 883/2004 (987/2009) and the bilaterally concluded tax treaty. These sources of law also apply mutatis mutandis to the Netherlands-Germany or Belgium-Germany relationship. The same conflict-of-law rules from the Rome I Regulation and Regulation 883/2004 (987/2009) also apply in these other bilateral relationships. With regard to tax treaties, however, the Netherlands-Germany Treaty (2012) applies to the Netherlands-Germany relationship. This treaty differs in some respects from the Netherlands-Belgium Treaty but is essentially of the same tenor. The main relevant treaty articles (relating to income from employment, self-employed persons and civil servants) do not differ greatly from one another (in terms of the information and depth of the FMT).
- All things considered, it can be said that, given its objectives and its substantive (legal) structure – with an emphasis on clarity – the FMT is both substantively robust and suitable for extension to other countries, such as Germany.

Sustainability

How is the practice sustainable from a social, financial or environmental perspective?

What makes this practice able to continue over time? (e.g. It is now part of regular work or has been built into law or procedures?) and how are you

- Maintenance work on the FMT must ensure that the information provided remains legally accurate, up to date and available in multiple languages. A balance must always be maintained between providing general information (with users being referred to professional advisers for detailed guidance) and providing sufficient detail to make the information personally relevant. The tool should help users understand their situation and

making sure it lasts beyond the pilot or project phase?

identify when they need further advice, supported by warning indicators that encourage action and prevent possible negative cross-border consequences.

- To guarantee the reliability of the information, the content of the FMT must be systematically reviewed and updated, as legislation, policies and legal interpretations continuously evolve. All scenario clusters therefore require ongoing monitoring to identify relevant changes affecting cross-border workers. However, not every legal development has the same impact on the tool's content.
- The FMT is primarily an information and diagnostic tool that provides users with an overview of applicable rules, insight into their personal situation and guidance on possible next steps. The tool is based on fundamental European and international rules in the fields of labour law, social security law and tax law. For employment law, the decision trees apply the principles of the European Rome I Regulation concerning the applicable employment law. For social security, the coordination rules of EU Regulation 883/2004 and 987/2009 are used, while tax-related issues are based on the bilateral tax treaty framework between Belgium and the Netherlands.
- As a result, changes to these European and international legal frameworks have the most direct influence on the FMT. Such changes occur less frequently than amendments to national legislation. In addition, case law at national and European level plays an important role in interpreting relevant provisions, including tax treaties and social security coordination rules.

Regarding taxation, the Netherlands and Belgium signed a new tax treaty on 21 June 2023. However, the relevant provisions affecting employment income and pensions remain unchanged, meaning that the treaty does not require adjustments to the current content of the FMT.

	► In the field of social security, recent developments concerning the revision of EU Regulation 883/2004 may have some impact on the tool. The proposed amendments aim to make social security coordination clearer, fairer and easier to enforce, with particular attention to unemployment benefits, long-term care, family benefits, access to social benefits and applicable legislation for posted workers and persons working in multiple Member States. For individuals working in two or more Member States, the revised rules provide additional guidance for determining the applicable national legislation based on factors such as the employer's registered office or place of business. These changes may require limited adjustments to the FMT scenarios. ► Overall, the FMT is built on stable fundamental rules at European and international level. Since these legal frameworks do not change frequently, the long-term sustainability and reliability of the tool can largely be ensured through regular monitoring and targeted updates.
Innovativeness What makes this practice new or different in your field or country? (e.g. Is it the first of its kind, or does it combine actors who don't usually work together, or activities not performed before?) How does it improve older or less effective approaches? (e.g. By reaching more people, using data better, or simplifying complex procedures)	► It can be concluded that the Fair Mobility Tool is a meaningful and forward-looking instrument within the provision of information on cross-border work. The tool meets a clear need for accessible, legally relevant and action-oriented information for cross-border workers, thereby serving as an important link between general information and individual advice. The structure of the information is based on academic literature, with the tool's objective, the behavioural aim of the information and the four principles of effective information (comprehensibility, accuracy, personal relevance and reliability) guiding the depth and design of the information. ► The added value of the FMT lies primarily in its ability to translate complex legal issues into the user's specific work situation in a structured and understandable way. It is precisely in a field where employment law, social security law and tax law intersect at multiple levels that

	the tool offers an initial, accessible assessment of potential areas of concern and risks. In doing so, it supports not only the user themselves, but also the advisers and intermediary service providers involved in cross-border employment. ► At the same time, the above makes it clear that the effectiveness of the FMT remains dependent on a careful balance between comprehensibility, legal accuracy, personal relevance and reliability. This tension is inherent to the nature of the tool: simplification is necessary to keep the information accessible, but must not be at the expense of legal precision. This requires ongoing monitoring of content, regular updating and a critical assessment of which developments should and should not be incorporated into the tool. ► Taking everything into account, it can be concluded that the FMT is substantively robust and provides a solid foundation for further development. The tool is not only relevant to the Belgian-Dutch border region, but also offers clear potential for extension to other cross-border contexts. As such, the FMT has the potential to develop into a more widely applicable instrument for promoting fair mobility within Europe.
Digitalisation What kind of digital tools or platforms were used in this practice? (e.g. online portals, automated case tracking, data sharing, digital databases or other) How did these tools help in reaching your goals? (e.g. Did they save time, facilitate access to data in real time, reduce errors, help detect fraud, or improve coordination between authorities?)	► FMT is part of a <u>digital strategy around integrated services, 'one stop shop'</u>. ► FMT <u>can be further extended as a tool to other borders, countries and other relevant service providers</u>