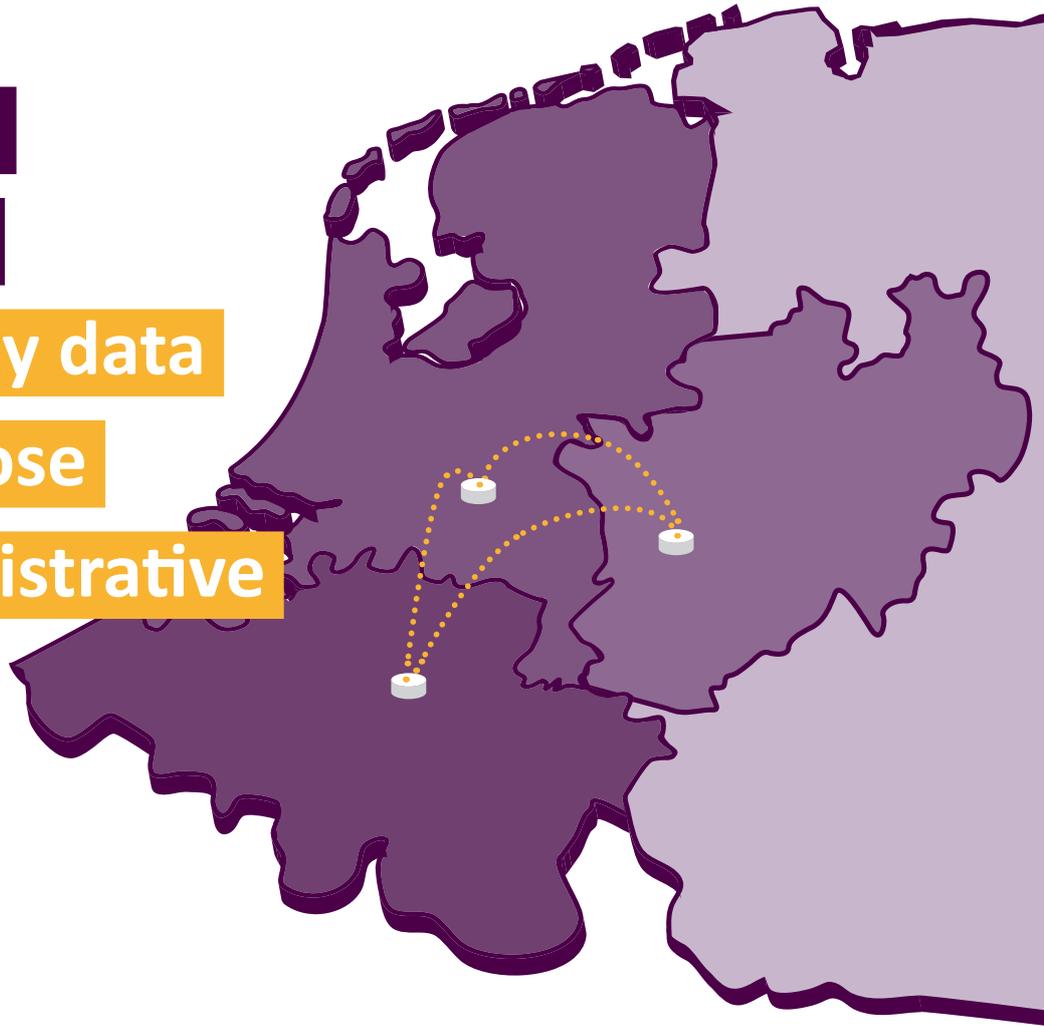


**Cross-border
exchange of
social security data
for the purpose
of the administrative
approach**



**Cross-border crime and the role
of local government**

- Within the European Union, **living and working across borders** has become a significant advantage and a matter of course.
- However, **crime doesn't stop at the border!** Criminals consciously use borders to stay under the administrations' radars.
- For the administrative approach, a **proper information position is essential.**
- **Social security data from another country may be crucial for a local government to halt abuse of legal structures.**

CASE: While processing a license application, the economic situation of the applicant is also checked in certain cases. In the case of foreign applicants, social data from abroad is also required in this regard, e.g. information on whether the applicant receives social assistance abroad, in order to allow a full investigation.

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How can local governments obtain foreign social security data?

1 Cross-border exchange of social data between municipalities

The transfer of social data from a municipality to a municipality abroad person is in most cases not possible in Belgium, the Netherlands and Germany. After all, there is often no legal ground for the provision, the provision may be in conflict with the purpose limitation principle or the provision may be in conflict with specific duties of confidentiality.

In exceptional cases, however, it appears possible to provide social data to foreign governments. In Germany, for example, social data which is provided to courts, prosecutors, police and security services in a domestic situation may also be provided to corresponding foreign authorities that have a similar mandate. If it can be argued that municipalities in Belgium or the Netherlands have a similar mandate to the German services mentioned in a specific case, the information may be provided.

2 Direct provision by social authorities to foreign municipalities

Although the direct transfer of social data to foreign municipalities by the social authorities is subject to different regulations in the individual countries surveyed, it is possible in certain situations.

In Belgium, foreign municipalities could in theory gain access to the Crossroads Bank for Social Security, which collects social security data. In practice, however, this is difficult since one of the conditions for access to this Crossroads Bank is that the government must have access to the data from the National Register. This is currently not the case, however.

In Germany, exchange of social data is limited to exceptional cases due to professional secrecy. Exchange with foreign municipalities can be considered, for example, if the foreign municipality itself acts as a social authority, is comparable to a similar German social authority, and the transfer is necessary for the fulfilment of the foreign social authority's tasks.

In the Netherlands, transfer may be considered in case of activities in the framework of a substantial public interest. According to the EURIEC, the administrative approach to organised crime may also fall under this concept. Depending on consideration in individual cases, data transfer consequently seems possible.



3 Passing on social security data by foreign social security authorities (U-turn)

Passing on social security data to other administrative authorities abroad after an investigation has taken place is, in most cases, not possible since it is in violation of the purpose limitation principle of the General Data Protection Regulation and national duties of confidentiality.



Possibilities

- For cases where social security data is provided to German courts, public prosecutors, police and security services, it can be argued that this information may also be provided to Belgian and Dutch municipalities. One condition here is that their task in a particular case must be similar to that of the German courts, public prosecutors, police or security services.
- In limited cases, social security institutions in the Netherlands and Germany may provide information to foreign municipalities in the framework of the administrative approach. This could also be possible in Belgium if the law is amended.
- Joint control operations between Belgium and the Netherlands are possible and have already been used.



Barriers

- There is no explicit legal ground for providing or passing on data for the administrative approach in the three countries.
- Social data is often specifically protected by, inter alia, professional secrecy.



In short/conclusion

Cross-border exchange of social security data for administrative purposes is possible in exceptional cases.

For a detailed legal explanation, please download the EURIEC memorandum 'Cross-border Provision of Criminal Records and Other Judicial Information' at www.euriec.eu.

If you have other questions or need support as a municipality with cross-border exchange of information, please contact the EURIEC via: euriec.rik.limburg@politie.nl.