

LEGAL ASPECTS OF THE LISBON TREATY ON THE EUROPEAN SINGLE MARKET AND IMPLICATIONS FOR CROSS-BORDER COOPERATION

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ABSTRACT

The Lisbon Treaty is one of the most significant pieces of legislation to bolster the legal systems of the EU, as it enhanced institutional channels and deepened economic integration. The Single Market was deepened through new stipulations on territorial cohesion, judicial cooperation, and the increasing role of the European Parliament and the Court of Justice of the European Union, building on the principle of the four freedoms of movement (goods, services, persons, and capital). The core legal questions and their implementation in the context of the Single Market are the focus of this paper that analyzes the Lisbon Treaty in this context. The analysis is structured across three levels: national—through the adaptation of domestic legislation to European norms; supranational—by examining the role of EU institutions in ensuring legal uniformity; and shared—through the study of multi-level governance instruments that support the functioning of the Single Market. Moreover, the paper will deal with today’s challenges: a fragmented system of regulation, non-tariff barriers and implications for border areas. The conclusions highlight that the Lisbon Treaty is of particular use for driving economic integration and the establishment of sustainable channels for cross-border cooperation, more specifically in Central and Eastern Europe.

KEYWORDS: *Lisbon Treaty; Single Market; EU Law; Cross-Border Cooperation; Territorial Cohesion*

J.E.L. Classifications: K33, F15, H77

1. INTRODUCTION

The Single Market of the European Union has been seen as an anchor of European integration for a long time by reflecting the basic principles of free exchange of goods, services, persons and capital (Barnard, 2019). Based on the idea of a world without regional borders, the Single Market emerges not just as an economic initiative, it also encompasses a legal and political framework for promoting cohesion, competitiveness and well-being in the Member States. Its construction has been achieved in stages based on several agreements, numerous legislative acts and continually strengthened by the Court of Justice of the European Union (CJEU) (Craig & de Búrca, 2021).

The Lisbon Treaty, which came into force in 2009, marked a clear step in this process. By reinforcing the institutional architecture of the Union, extending the democratic legitimacy of decision-making, and incorporating a number of new legal provisions, the Treaty strengthened the building blocks of the Single Market (Weatherill, 2021). It notably reinforced territorial cohesion as an aim of the Union, something of particular relevance for cross-border regions (Treaty of Lisbon, 2007). In parallel with this, the Lisbon Treaty reinforced the roles of the European Parliament and the CJEU, thereby ensuring both broader democratic participation and more effective judicial oversight in the functioning of the Single Market (Chalmers, Davies, & Monti, 2019).

The relevance of this topic for cross-border cooperation is particularly evident in Central and Eastern Europe, where border regions often face structural challenges but also hold significant opportunities for integration and development. By shaping the legal framework for cooperation, the Lisbon Treaty facilitates not only the removal of barriers to trade and mobility, but also the creation of mechanisms that support regional growth, social cohesion, and institutional collaboration across national boundaries (Craig & de Búrca, 2021).

This article seeks to identify the legal framework related to the Single Market in accordance with the Lisbon Treaty, and then to describe its effect on cross-border cooperation. The analysis aims to work its way in three interrelated levels: the national level, where domestic legislation needs to reflect EU law, the supranational level, to which EU institutions' regulatory and supervisory actions need to appeal to EU law, and the shared level, to which governance is performed from multi-level cooperation between the Union, Member States and regional players. Methodologically, the paper will be a doctrinal legal analysis of treaty text and

jurisprudence as well as a contextual analysis of their effect on cross-border cooperation in Central and Eastern Europe.

2.THE EUROPEAN SINGLE MARKET: LEGAL FOUNDATIONS AND EVOLUTION

The European Single Market originated in the Treaty of Rome of 1957, which provided the legal foundation for the European Economic Community (EEC). The Treaty of Rome was fundamentally based on the creation of a “common market” (Treaty of Rome, 1957) through the gradual removal of customs barriers and the adoption of a common external tariff. While initially conceived as an economic arrangement, the common market also represented a step toward legal integration, as it required the harmonization of national laws and the development of supranational institutions capable of supervising compliance (Craig & de Búrca, 2021).

The next major breakthrough was represented through the adoption of the Single European Act (SEA) in 1986, which established the legal and political momentum for accomplishing the internal market by the end of 1992. The SEA brought in qualified majority voting into the Council for internal market legislation and, therefore, limited the potential of individual Member States to derail such legislation. It also enhanced the competences of the European Parliament, and in doing so promoted a more democratic legitimacy in the making of the law (Chalmers, Davies, & Monti, 2019). This pledge to eliminate physical, technical, and fiscal barriers was more profoundly enshrined in a broad program of legislative and regulatory measures designed to promote the free flow of goods, services, persons, and capital (Barnard, 2019).

The integration process was further advanced with the Maastricht Treaty of 1992, which officially established the European Union and brought in the idea of “Union citizenship” (Treaty on European Union, 1992). Not only did this new status grant people rights to political participation, it also reinforced their rights to free movement and residence within the Union. Maastricht also promoted economic integration since it provided the legal framework for Economic and Monetary Union that complemented the Single Market by aiming to ensure stability and uniformity in financial and monetary policy (Weatherill, 2021).

Central to the Single Market are the four freedoms. Free movement of goods ensures the removal of customs duties and quantitative barriers between Member States, and prevents

measures that have equivalent effect (*Procureur du Roi v Dassonville*, 1974). Due to its free movement of services, it permits the service provider to be a cross-border provider with equal treatment (Barnard, 2019). The free movement of persons — such as all workers and Union citizens — affords them rights such as mobility, residence, and equal treatment in host countries where they reside (*Grzelczyk v CPAS*, 2001). At last, the free movement of capital makes it possible for financial transactions and investment to be liberalised for all of the Union, and on a limited number of occasions, even third countries (Craig & de Búrca, 2021). Tied together, these freedoms form an economy of interconnected and integrated space, rooted in concrete provisions and secondary legislation.

As a result of its decisions, the Court of Justice of the European Union (CJEU) has performed a critical role in consolidating and extending these freedoms. The Court has, through its jurisprudence, been interpreting treaty provisions broadly, striking down national measures that impede integration and ensuring the primacy and direct effect of EU law (*Van Gend en Loos*, 1963; *Costa v ENEL*, 1964). Landmark rulings such as *Dassonville* (Case 8/74), establishing the broad definition of measures having equivalent effect, and *Cassis de Dijon* (Case 120/78), which articulated the principle of mutual recognition, have shaped the legal architecture of the Single Market. In a similar manner, in the area of free movement of persons the Court consistently reinforced and expanded the rights of Union citizens beyond the original scope established by treaties, as seen in *Grzelczyk* (Case C-184/99) and *Baumbast* (Case C-413/99).

The CJEU's jurisprudence over the years has turned the Single Market into a dynamic legal order in which individuals and economic operators can directly invoke their rights before national courts. This judicial activism has complemented legislative initiatives, ensuring that the Single Market remains not only a political aspiration but also a legally enforceable reality (Weatherill, 2021). The combination of treaty provisions, secondary legislation, and case law has thus created a robust and evolving framework that continues to shape the integration process within the European Union.

3.THE LISBON TREATY AND THE CONSOLIDATION OF THE SINGLE MARKET

The Lisbon Treaty, which entered into force in 2009, fundamentally transformed the institutional and legal framework of the European Union. It did not re-create the Single Market, but consolidated and intensified its function by reshaping the Union's governance structures,

strengthening judicial oversight, and broadening the scope of EU policies on which economic integration rests. The Treaty had its origins in an attempt to resolve both the internal problems of enlargement and external pressures of globalization, and its impact still lingers in daily operations of the Single Market (Craig & de Búrca, 2021).

The Lisbon Treaty's institutional reform was among one of its most important contributions. The Treaty gave the European Parliament greater powers, making it a co-legislator in nearly all aspects of the internal market by extending the ordinary legislative procedure (previously known as co-decision). It also put Parliament on an equal footing with the Council of the European Union in the process of adopting the legislation on the four freedoms and relevant regulatory fields (Chalmers, Davies, & Monti, 2019). The Council itself, for its part, also witnessed that its voting system gradually shifted towards qualified majority voting, limiting the ability of each state to block legislative initiatives. The European Commission could continue its central function of launching legislation and ensuring compliance but now had a clearer mandate for promoting the Union's general interest and overseeing the functioning of the Single Market (Barnard, 2019).

The Lisbon Treaty further reinforced the role of the European Council by enshrining it as an institution and establishing a permanent President. Although not directly involved in day-to-day market regulation, the European Council has a significant strategic role in framing the goals of the Single Market (such as the Europe 2020 strategy and the digital & green transitions follow-up) in the long run (European Commission, 2018).

A second aspect of Lisbon's contribution was the strengthening of the Court of Justice of the European Union (CJEU). The Treaty clarified the Court's jurisdiction and made certain that virtually all areas of EU law, including justice and home affairs, fell under its purview. Under the Single Market, the CJEU also strengthened the jurisdiction of the Court to hear cases in relation to the four freedoms, competition law, and harmonization measures, providing for consistency and legal certainty (Weatherill, 2021).

The Lisbon Treaty further enunciated the Charter of Fundamental Rights of the European Union as a legally binding instrument, with consequences for the performance of the Single Market. Thus, fundamental rights considerations are now a factor in the balancing of economic freedoms and social protections on labor mobility and service supply cases (Craig & de Búrca, 2021). This development underscores the Court's dual role in safeguarding both

economic integration and broader societal values.

Territorial cohesion was officially established as an aspect of the Lisbon Treaty (Article 3 TEU; Articles 174–178 TFEU). In addition to economic and social cohesion, territorial cohesion aims to achieve balanced development across the Union, with particular attention to disadvantaged regions, including border territories. This is critical for cross-border cooperation, since in border regions structural obstacles—inadequate infrastructure, administrative complexity, or differing national regulations—may make full Single Market participation difficult (European Commission, 2017).

By embedding territorial cohesion as a fundamental EU goal, Lisbon thus created the legal framework for measures such as the European Groupings of Territorial Cooperation (EGTCs), which were intended to promote joint projects across national frontiers. Emphasising territorial cohesion within the Treaty also supported funding instruments within the EU Cohesion Policy and initiatives like “Interreg” that directly promote cross-border, transnational, and interregional cooperation. For Central and Eastern Europe, where many new Member States share long external and internal borders, these instruments have become crucial in making available necessary tools of cross-border cooperation so that border regions realize the advantages of the Single Market (Barnard, 2019).

It was also the case that the Lisbon Treaty further consolidated the Single Market by increasing the Union’s competences in complementary policy areas. In energy, Lisbon introduced a specific legal basis for a common energy policy (Article 194 TFEU), concerning the security of supply, interconnection of networks, and the promotion of renewable energy. According to Craig and de Búrca (2021), this has direct implications as it is vital for the functioning of the Single Market for energy security, as well as for the integration of national markets, for ensuring its competitiveness and sustainability.

As far as transport is concerned, the Treaty reinforced the Union’s role in creating a trans-European transport network (TEN-T) to ensure mobility across borders and facilitate both movement of goods and labour. Developing transport infrastructure has been particularly important for border regions. It has enabled them to overcome physical barriers and integrate into the Single Market more effectively (European Commission, 2018).

The Lisbon Treaty also paved the way for the Digital Single Market — now one of the EU’s flagship initiatives. The Treaty also created a clearer legal structure for the regulation of

information society services and telecommunications so that the Union could tackle roadblocks related to online trade, data flows, and digital services (Chalmers, Davies, & Monti, 2019). The Digital Agenda — the EU's attempt to shape the Single Market to suit 21st-century realities — also covers digital technologies and innovation.

The Lisbon Treaty contributed to the unification of the Single Market legal framework by institutional reform, judicial power building, and the enlargement of the policy scope. This embedding of goals including territorial cohesion, and the enhancement of EU energy, transport, and digital competences, made the Single Market a much more holistic and sustainable union-building scheme and not just another economic agenda for Member States. This holistic approach has been especially important for border areas, where the provisions of the Treaty also have permitted legal harmonization and practical cooperation, consolidating as much as possible the Union's general objective to achieve greater integration.

4.CROSS-BORDER COOPERATION IN THE LISBON CONTEXT: THREE LEVELS OF ANALYSIS

The Lisbon Treaty reinforced the institutional base of the Single Market and formed a structure for dealing with long-standing disparities and gaps in Member States and their border regions. The principle of territorial cohesion enshrined in the Treaty of Lisbon provides a need for balanced development and for reducing the obstacles to integration. This framework is especially useful for collaboration spanning borders, which operates on three interlinked levels of governance: national, supranational, and shared.

At the national level, Member States have to harmonize their national legislation with the demands of the Single Market. This process involves transposing EU directives into national law, ensuring the direct application of EU regulations, and adapting administrative and judicial practices to comply with European legal standards (Craig & de Búrca, 2021). Failing to adhere can lead to a European Commission infringement action and, in turn, a judgment from the Court of Justice of the European Union (CJEU).

Romania presents an example of the problems and the prospects of legislative adaptation. Romania has made considerable reforms to competition law, consumer protection, and public procurement, in accordance with the Single Market rules, since its accession in 2007

(Chalmers, Davies, & Monti, 2019). Border management reform is crucial for Romania as it plays a leading role in allowing the integration of states in the region across borders, especially because of its vast frontiers with both EU and non-EU states. To improve integration and to allow the border regions to take advantage of Single Market opportunities, harmonization of customs procedures, liberalisation of transport services, as well as developing cross-border infrastructure, such as those corresponding with Hungary and Bulgaria, have been, at present, at the core (European Commission, 2018).

Nevertheless, challenges remain. Romania continues to face difficulties in reducing administrative burdens, ensuring consistent application of EU norms at local levels, and bridging socio-economic gaps between core and border regions. These issues demonstrate that national adaptation is not merely a legal exercise but also a matter of governance capacity and institutional effectiveness.

At the supranational level, the EU exercises its competences through legislative instruments designed to ensure uniformity and legal certainty across Member States. Regulations are directly applicable in all Member States, creating a high degree of harmonization. Directives, by contrast, establish objectives that Member States must achieve while leaving them discretion on the form and methods of implementation. Together, these instruments ensure that cross-border cooperation takes place within a coherent legal framework (Barnard, 2019).

The Lisbon Treaty delineated the distribution of competences between the Union and the Member States. Article 3 of the Treaty on the Functioning of the European Union (TFEU) defines areas of exclusive competence (including competition rules for the internal market and customs union), where only the EU can legislate. Article 4 sets out areas of shared competence, including the internal market, transport, energy, and cohesion policy, where EU and Member States may act. Such distribution is key to cross-border cooperation, providing the legal framework for EU-wide policies while allowing Member States to deal with regional particularities (Weatherill, 2021).

The supranational framework avoids border areas being disadvantaged under different national regulations. The EU tried using different tools to balance economic freedoms with social protections, creating a level playing field for businesses and workers engaged in cross-border activities. These instruments show how supranational regulation achieves legal certainty,

promotes trust, and prevents the fragmentation of the Single Market.

The shared level of governance underpins the Lisbon Treaty's commitment to territorial cohesion and its acknowledgement that for cross-border cooperation to be effective, it is necessary to coordinate between the EU, Member States, and their regional or local partners. Indeed, since the advent of multi-level governance has become the hallmark of EU policy, it offers the possibility of bespoke interventions tailored for each border area's special circumstances (Chalmers, Davies, & Monti, 2019).

The key instrument in this area is the European Territorial Cooperation (ETC) policy, or "Interreg", through which thousands of cross-border projects have been supported since its launch. It is under Lisbon that Interreg was strengthened as a main plank of the Cohesion Policy, with dedicated funds for projects involving infrastructure, environmental protection, education, and innovation (European Commission, 2017).

Moreover, the Lisbon Treaty laid the legal groundwork for the European Grouping of Territorial Cooperation (EGTC), a new tool for regional and local governments of the various Member States to form joint entities with legal personality. EGTCs facilitate cross-border projects in such sectors as healthcare, transport, and energy, reducing administrative complexity while securing long-term cooperation (Barnard, 2019). EGTCs, for instance, along the Romanian - Hungarian border have established coordinated development of transport corridors and joint environmental resource management, showing the practical impact of shared governance.

The shared level, then, captures the spirit of the Lisbon Treaty: an integration not only at the level of legislation and policy but also via cooperation among institutions and communities. The EU has offered financial assistance complemented with legal instruments that have enabled border areas to meet structural challenges and to take the best of the Single Market.

Cooperation across borders, as perceived in the Lisbon context, implies stratified governance. At the national level, the responsibility for legislation and institution strengthening lies with the Member States, to create legislation that fulfills Single Market requirements. For the supranational level, the EU provides consistent EU rules, legal certainty, uniformity and fairness across countries in a harmonized way. Multi-level governance structure, and

instruments like Interreg and EGTC are examples of other common structures at the shared level, which grant regions the capacity to develop their own integration and development solutions. These levels together illustrate the enduring effect of the Lisbon Treaty: by embedding territorial cohesion into those objectives of the Union and by encouraging cooperation on several levels, it has contributed to the inclusiveness and sustainability of the Single Market, specifically in its border areas in Central and Eastern Europe.

5.CURRENT CHALLENGES AND PERSPECTIVES

Whereas the Lisbon Treaty laid down a strong legal and institutional underpinning to the Single Market and cross-border cooperation, the forces of dynamism of the 21st century challenge this ideal foundation, as well as the resilience of European integration. These challenges emerge in the regulatory, geopolitical, technological, and regional arenas that significantly affect the operation of the Single Market, as well as the cohesion of border regions. But the Lisbon Treaty and EU secondary legislation have pledged unified law, and we find regulatory fragmentation a long-term challenge. Differences in the implementation of directives, administrative practices, and enforcement across Member States all make up non-tariff barriers to the Single Market effectiveness (Barnard, 2019). Different standards in areas such as professional qualifications, consumer protection, and environmental regulation, for example, hinder the free provision of services across borders (Craig & de Búrca, 2021)

Although the Services Directive was designed to reduce some of these barriers, it has not been able to achieve the objectives of the Directive, as the Member States continue to impose restrictions justified on public interest grounds. This regulatory heterogeneity disproportionately affects small and medium-sized enterprises (SMEs), who are ill-equipped to deal with complex national law and has particular effects on border areas, where companies are highly dependent on cross-border commerce (European Commission, 2018).

Further geopolitical developments have led to a strain on the Single Market. Unprecedented legal and practical challenges were created, especially in the areas of customs, services, and labor mobility with the United Kingdom's withdrawal from the EU (Brexit) (Weatherill, 2021). Moreover, Russia's 2022 invasion of Ukraine has affected supply chains and exposed energy dependency vulnerabilities and raised security concerns at the Union's eastern borders (European Commission, 2022). These trends illustrate that free movement is

not free from external shocks. The return of border controls during crises, whether linked to migration, public health, or security, has tested the notion of a space without internal frontiers. Indeed, geopolitical instability has also led to higher security commitments and additional economic uncertainty, preventing border regions in Central and Eastern Europe from taking full advantage of the Single Market.

On the other hand, digitalization is growing rapidly, which opens opportunities and challenges for the Single Market. The Digital Single Market strategy, launched in 2015 and later complemented by subsequent initiatives, aims to remove barriers to online trade, harmonize rules on data protection, and foster innovation in areas such as artificial intelligence and cybersecurity (Chalmers, Davies, & Monti, 2019). Although great strides have been made, fragmented regulation of digital, from differing national approaches to taxation of digital services to inconsistent implementation of the General Data Protection Regulation (GDPR), remains a barrier to cross-border digital activity (Craig & de Búrca, 2021). In addition, digital divides continue to persist across Member States, with Central and Eastern European regions often lagging behind in infrastructure and digital skills, limiting their capacity to seize the benefits of this new wave of integration.

Central and Eastern European border areas have specific obstacles adapting to these more general trends. Structural economic inequalities, underdeveloped infrastructures, and bureaucratic complexities currently impede their full integration into the Single Market (European Commission, 2017). Although EU cohesion policy and instruments, including Interreg and EGTCs, provide dedicated assistance, the success of these initiatives relies on local governance capacity and trust between countries. In addition, border areas are most vulnerable to external shocks such as migration flows, security threats, and energy vulnerabilities. The war in Ukraine has exacerbated these challenges further, particularly for Romania, Poland, and others who are on the front lines, whose trans-border collaboration has had to respond quickly to humanitarian needs yet remain economically integrated.

In view of this, the Lisbon Treaty's emphasis on territorial cohesion certainly continues to have relevance, but there is also a need for further work aimed at ensuring the "peripheries" of the border regions transition into dynamic engines of integration. We need investment in infrastructure, digital connectivity, and institutional capacity to combat these imbalances and protect the inclusiveness of the Single Market.

6. CONCLUSIONS

The Lisbon Treaty has turned out to be the cornerstone of the EU's Single Market consolidation. The Treaty not only strengthened the institutional architecture of the Union, but also added legislative powers to the European Parliament and fortified oversight of the Court of Justice of the European Union (CJEU); therefore, to ensure territorial cohesion was realized.

This structural strengthening ensures that the Single Market will operate not only as an economic space, but also as a legal order, for the benefit of individuals and enterprises throughout the EU. The treaty's core contribution, perhaps, is to promote cooperation among the international community. By making territorial cohesion a goal of the Treaty and contributing to new instruments such as the European Grouping of Territorial Cooperation (EGTC) and the Interreg program, it also allowed those at the outskirts of the Union to participate more effectively in the benefits of integration. It did so while turning border regions from marginal areas to active participants in the Single Market and fostering social and economic development while giving European integration its credibility.

Looking to the future, the problems confronting the Single Market and cross-border cooperation demonstrate the Treaty's continued relevance. Fragmentation and geopolitical instability in regulation, and uneven digital transformation call for fresh action at the EU level as well as in Member States. The subsequent integration will probably be on the basis of creating more resilient, inclusive, and new legal mechanisms that adapt to new realities such as digitalization, energy security and environmental sustainability. The Lisbon Treaty cannot, therefore, be viewed as the conclusion of integration but as the starting point on which the Union needs to build. In the process, it strengthens the equilibrium amongst economic freedoms, social protections and territorial cohesion and becomes a guide to the development of the Single Market. Its lasting significance is due to both its flexible and comprehensive legal basis - one that facilitates cooperation across frontiers, encourages balanced development and guarantees continued evolution and forward-looking vision of European integration.

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