

 <b>CRPM CPMR</b>	<b>CONFÉRENCE DES RÉGIONS PÉRIPHÉRIQUES MARITIMES D'EUROPE</b> <b>CONFERENCE OF PERIPHERAL MARITIME REGIONS OF EUROPE</b>
	6, rue Saint-Martin 35700 RENNES - F Tel. : + 33 (0)2 99 35 40 50 - Fax : + 33 (0)2 99 35 09 19 e.mail : <a href="mailto:secretariat@crpm.org">secretariat@crpm.org</a> – web : <a href="http://www.crpm.org">www.crpm.org</a>

## MEETING OF THE “TERRITORIAL COOPERATION” WORKING GROUP

10 MARCH 2010 – BRUSSELS

- Summary of conclusions -

### Speakers :

**Gerbaud Stéphane**, Direction Europe, Nord-Pas de Calais Region

**Gourden Julie**, CPMR Director

**Le Vaillant Thomas**, DG Competition, Regional Aid Unit

**Louwers Ruut**, Programme Director – Joint Technical Secretariat, INTERREG NWE

**Nichols Matt**, Interact Point Viborg

**Rubió Jean**, Chargé de mission, Mission Opérationnelle Transfrontalière

**Rusca Rossella**, Expert and Representative of National Public Administration

### Introduction to the Working Group, by Julie Gourden

The Lisbon Strategy chose a top-down approach. This has been felt as irrelevantly imposed to local and regional authorities. How could this be avoided in European Territorial Cooperation?

The working group has progressively moved towards more in-depth questioning such as the need for a more strategic and coordinated approach in the programmes. Therefore, the last seminar focuses on governance issues, raising a wide range of questions: financial and administrative management of the projects (and the workload they imply) and possible simplification. The work produced during these seminars will eventually lead to a CPMR political position on territorial cooperation in May with a view on the next Report on Economic and Social Cohesion.

### THE POSSIBILITIES FOR UNIFICATION OF COOPERATION REGULATIONS

**Matt Nichols** presented Interact research on State Aid. The main questions to ask are: Can the private sector participate? Should it participate? Are the existing tools enough to allow their participation? It is technically possible for private partners to participate in territorial cooperation programmes. With the 2007-2013 period, the limits on private co-financing have disappeared. However, in practice barriers remain, especially the differing rules in each Member State. Therefore, State Aid rules are

difficult to apply in the case of transnational cooperation, while the *de minimis* rule is commonly used in cross-border cooperation. Several kinds of barriers still exist in the participation of private partners (cf. presentation). However, things must be kept in perspective. The Commission has already stated that territorial cooperation programmes usually comply with EU rules on State Aid, and very few cases might potentially lead to an incompatibility with competition rules. There is a 'grey zone' representing cases where it is hard to say whether there is an aid or not. This has to be determined at national level as Member States eventually make the political decision. It is a personal view that participation in ETC projects from a wide range of actors (civil society, academic institutions, public authorities, firms, etc.) leads to better projects. State Aid remains an issue, but this issue can be overcome by sound management methods. Several tools already exist for the programmes to manage SA issues (informed risk management, *de minimis*, GBER, etc.).

To conclude, State Aid and private participation must not be seen as a burden. There are risks, but they are manageable and tools are being developed for that.

**Thomas Le Vaillant** gave the DG competition viewpoint on State Aid issues in the territorial cooperation context and on the Commission's approach to State Aid. Article 107(1) TFEU poses a general prohibition and gives the definition of State Aid: Granted by a Member State or through State resources, favouring certain undertakings or goods, with an effect on trade, distortion or risk of distortion of competition.

The aid must be compatible with the Treaty, the aid must be lawful, or be exempt, constitute *de minimis* aid, or be approved by the Commission.

**Rossella Rusca** gave a view on the programmes from a Member State perspective. Again, the lack of knowledge among potential private partners was stressed. In addition the issue of State Aid is often hardly known or underestimated. For instance there is a common confusion between public procurement and State Aid (and consequently of the rules to apply). Because of this lack of knowledge, partners often avoid public procurement. Therefore, there is a need for clarification of the rules. On the share of responsibilities, the Member State in the Monitoring Committee is responsible for the selection but in practice the Managing Authority and the Joint Technical Secretariat select the projects, which leads to an unclear share of responsibilities. Currently, this works through an unstable gentleman's agreement.

**Ruut Louwers** provided empirical experience from a programme. Private partners' participation is useful when they can help fulfil European structural policy objectives. INTERREG programmes are very efficient for cohesion. Indeed, they are quite cheap in comparison with their possibilities in terms of ideas. However, these programmes lack visibility (several programmes covering a Region, communication flaws). Currently, politics do not enter into the project implementation and selection. But the programmes would benefit from more political input in terms of strategy and guidance. However, the strategic and implementing dimensions must remain separated. On the issue of macro regions it is doubtful that the creation of macro regions is compatible with the cohesion objective. In terms of coherence, the NWE Programme tries to connect with FP7. However, it is already complex to have synergy between the INTERREG programmes. This is a big challenge which calls for more uniformity.

### **Summary of discussions**

There is a global demand from the regions for more private partners' participation. They are often afraid that this might be too complex and uncertain, which requires clarity and information from public authorities. Also, distinctions between different participation levels (supplier/partner) and

resulting applying rules should be used to welcome new participants. Currently, there is a gap between the expectations from potential partners and the constraints imposed in the programmes.

It has been proposed that common State Aid schemes would apply in cases of transnational cooperation. However, the DG Competition representative answered that the programme has to apply the scheme of the Lead Partner's Member State.

State Aid is dealt by Member States. However, it would be easy to unify State Aid submission procedures.

## **ADAPTATION OF ADMINISTRATIVE AND FINANCIAL WORKLOAD**

**Stéphane Gerbaud** gave a comparative overview of INTERREG/FP7 programme management (cf. chart in the presentation). The complexity of the ETC programmes is the main barrier to the participation of new partners who often lack administrative capacity. The characteristic of INTERREG programmes is that their management is decentralised. The compensation for that decentralisation is the existence of several levels of control. In the French case, there are up to five controls (1<sup>st</sup> and 2<sup>nd</sup> level of control, national control, payment authorities' control, Commission's control). In other projects (FP7...), the relationship is contractual. There is control from the executive agency and possibly from an audit authority. The principle of proportionality of the control in the regulation is not applied in practice. Should it be applied in accordance with the sums at stake, the partners' past (regularity, experience)? In order to clarify the situation, it is proposed that a specific regulation or specific provision on territorial cooperation in the ERDF regulation be adopted to take into account ETC specificities.

**Jean Marc Venineaux** explained that the Commission is aware of the heavy burden that the programmes' management represents. This is the price for subsidiarity: Member States have agreed to it but want to control the spending. Proportionality is currently not applied by any Member State and the control of money differs from a Member State to another. But this is always related to a lack of mutual trust. But here this is even more complex as the DGs do not all have the same objectives (DG REGIO/RELEX). The DG REGIO representative does not see any ideal solution as there is pressure from the Member States and the Parliament to control the spending of money.

### **Summary of discussions**

There is a difference to make between irregularities due to fraud and those which are mere administrative mistakes (and which represent the huge majority of these irregularities).

Also, the example of Lifelong Learning programmes has been used to show that decentralised programmes do not necessarily imply heavy controls. The reluctance of the Member States and the Parliament to decrease this burden is therefore criticised by several participants. However, DG REGIO answered that ECT programmes are inherently different as they have a regional and multinational dimension. Possibilities for simplification exist: programmes themselves make their life harder by adding workload (audits, etc.) which lead to a kind of secondary legislation of control. The Commission has already published recommendations on good practice that should be used to lighten the burden of controls. As there is subsidiarity and flexibility, programmes interpret these guidelines differently and sometimes interpret the Commission's statements in a way that actually makes the burden heavier. There is a problem arising from the fact that different rules apply in each Member State. Therefore, the Commission should centralise the approach so that each Euro would be spent in the same way everywhere.

There is a general fear that the complexity and opaqueness of the programmes will lead to a lack of new actors in the ECT. This might lead to an 'elite' that will have enough capacity and knowledge to manage the funds, leading to clubs of partnership where actors would always be the same.

The Parliament's growing hesitation on the usefulness of ETC programmes has been mentioned several times.

## **ETC IN THE LIGHT OF THE EU 2020 STRATEGY AND THE LISBON TREATY**

**Jean Rubió** made remarks on the improvements expected from the EGTC. It is supposed to offer a greater leeway to cooperation actors. Hundreds of types of structures are imaginable within this framework. The example of the Grande Region showed that the programme has been improved in terms of efficient management since the switch to an EGTC structure. Notably, the EGTC allows the clarification of the responsibilities of each actor.

There are still concerns about legal uncertainty (applicable law depending on the location of the EGTC, participation of third countries).

### **Final debate**

Globally, there is a need for distinction between the types of cooperation in the choice of decision making process. Empirical evidence shows that consensus with INTERREG IV C has led to obstructed talks. When 29 Member States defend their point of view, it is impossible to reach an agreement. However, it is working better with INTERREG A and B. however, there are concerns about the use of majority: a Member State might be imposed a project that goes against its national policy. Moreover, a qualified majority would be against the whole EU idea that the money comes from the Commission and not from the Member States.

With consensus, the idea is to develop the cooperative spirit. Also, avoiding conflicts between the projects and national policies can be achieved by applying a coherence criterion during the project selection process. The Monitoring Committee should have a representative of each Member State participating in the cooperation. But these representatives should have the appropriate competence and experience of the INTERREG programmes. Also, a strategic dimension should be introduced among the selection criteria, as many propositions are too general. Besides, solutions proposed by projects should better correspond to the SWOT analysis.

Some participants fear that with politicians on board, there would not be any further relevant input (the use of pre-assessment by the JTS and the use of experts is sufficient). On the proposition to have different criteria in each programme: this is a good idea to some extent, there should be more leeway, notably in terms of strategy. However, eligibility criteria should remain common for legal reasons.

There is consensus on the idea that politicians should have the competence to give strategic input. On the other hand, participants seem globally reluctant to the idea of introducing political considerations in the selection of projects once the strategic guidelines have been established. In the end, the governance and the concerns about the legal status of the entity are secondary: the content of the cooperation must remain the first and main question to ask to when starting a partnership.