

EUROPE TODAY



NEW EUROPEAN STATE AID REGULATION AND PUBLIC CREDIT GUARANTEES BY STEFFEN SÜHNEL

Editorial

Dear Reader

Together we are striving for a Europe that can stand its ground within the intensifying global competition. To ensure this goal of the "Community Lisbon Programme", it is of high importance that people working in or for Europe gain a deeper understanding of the impact European decisions might have. We, the European Academy for Taxes, Economics & Law define ourselves as an educational network for knowledge regarding the latest relevant developments in Europe. We aim at meeting your current information needs. Our events provide the latest information with high practical relevance for authorities on the European, national, regional and local level, and for private companies all across Europe. Attending an event offers the opportunity to become part of a European expert's network and to develop long-term contacts on a business level that facilitate the day to day work. We developed this new design of our newsletter to strengthen this business network. "Making Europe work" to us means to support those working in a European environment and to keep you up-to-date with the latest information. The European Commission and authorities

in the Member States have published several documents and guidelines and several others will follow. Thus it is not a lack of information we face, but an idea of how to value and use this information and how to incorporate guidelines and regulations in the daily work. We are aware that it is impossible to provide you with all existing information, but we do believe that knowledge grows if you share it.

This is why EUROPE TODAY does not claim to know everything concerning every authority, branch of industry or working field. But we know that we are already a huge network of people working in similar fields of action. The idea of this newsletter is to share experiences and knowledge. EUROPE TODAY intends to be your voice and your tool to communicate with others. We kindly invite all of you to contribute to this newsletter by sending us essays, articles, press releases, book recommendations or interesting links to new guidelines.

Yours,



Christine Döbler (Editor in chief)

Note to Readers

We welcome your comments or suggestions at the following address: European Academy for Taxes, Economics & Law.
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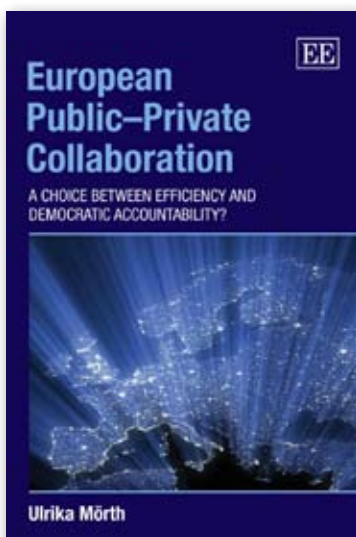
Book Recommendations

European Public–Private Collaboration

A Choice Between Efficiency and Democratic Accountability? Ulrika Mörth, Professor, Department of Political Science, Stockholm University, Sweden.

This book looks at some of the major themes concerning governance in the EU, namely the focus on market-friendly regulations, output legitimacy and how the requirement of efficiency is combined with the requirement of democratic accountability. The dilemma between efficiency and democratic accountability is analysed in three cases of close collaboration between public and private actors: the European satellite navigation programme (Galileo), the European Investment Bank and health policies, and the European financial market – especially the banking sector. Contents: Preface 1. Introduction 2. Theoretical Framework 3. European Governance – An Empirical Background 4. The Case of the European Satellite Navigation Programme 5. The Case of the European Investment Bank and Health Co-authored with Emilia Holkeri 6. The Case of the European Financial Market 7. Conclusions and Discussion References Index

**Edward Elgar Publishing Ltd, 2008
160 pp, Hardback**

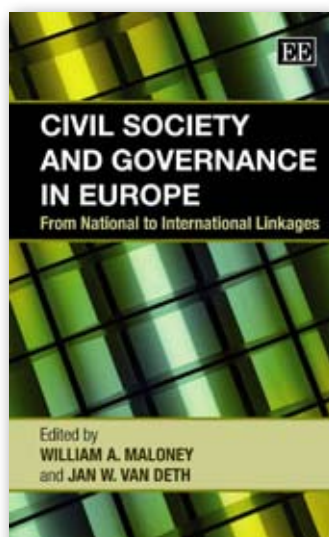


Civil Society And Governance In Europe - From National to International Linkages

Edited by William A. Maloney, Professor of Politics, University of Newcastle upon Tyne, UK and Jan W. van Deth, Professor of Political Science and International Comparative Social Research, University of Mannheim, Germany.

The research presented in this book is based on new primary data and demonstrates that in terms of civil society actors adapting to the European political space the Europeanization process has an uneven development. This book integrates 'top-down' approaches for the study of relationships within the developing EU-multilevel system (i.e., the consequences of Europeanization for civil society at the local level) and 'bottom-up' approaches (i.e., the consequences of civil society for the process of European integration and democracy in the EU). The contributors argue that exploration of these recursive linkages requires a rethinking of the relationships between (local, national, and trans-national) civil society and multi-level governance. This book is written for academics and scholars at postgraduate levels and above as well as for experts working in the field of European decision-making who are looking for conclusions based on empirical research.

Edward Elgar Publishing Ltd, June 2008, 288 pp Hardcover



Cross-border Governance and Sustainable Spatial Development. Mind the Gaps!

M. Leibenath, Leibniz Institute, Dresden, Germany; E. Korcelli-Olejniczak, PAN-Warszawa, Warsaw, Poland; R. Knippschild, Leibniz Institute, Dresden, Germany (Eds.)

Border regions in Central Europe undergo tremendous changes due to the enlargement of the European Union and the related processes of Europeanization, bordering and re-bordering. The book explores the consequences of these processes for cross-border governance and spatial planning in Central Europe. It combines analyses of European and national framework conditions with case studies from border regions and cities in 8 countries. The focus is on generic questions of cross-border planning and cooperation as well as on selected sectors such as nature conservation, transport and economic development. The book is written for the international scientific community and for practitioners in the fields of spatial planning, cross-border cooperation, environmental protection and structural policy. This publication is an up-to-date presentation of cross-border governance and spatial planning with a focus on Central Europe including both theoretic discussions and empirical findings. It is written for institutes, researchers and scientists.

Springer, June 2008, (Central and Eastern European Development Studies (CEEDES)), 194 p. 12 illus., Hardcover

European News



One Step Further to Improve Working Conditions for Temporary Agency work

Member States reached an agreement about the issues of the Working Time Directive and the Temporary Agency Work Directive at the Employment. Many Member States are in breach of the legislation as interpreted by the European Court of Justice. According to these rulings, active and in-active on-call time must be counted as working time. Also, the new text significantly improves the protection for workers who sign an opt-out. Finally, it reintroduces a reference to conciliation between working life and family life. In March 2002 the European Commission adopted a proposal to create a level playing field for temporary agency workers across the EU. The Commission welcomes the agreement among the Member States. The Council Common Positions now have to be sent to the European Parliament for a second opinion, as foreseen by the co-decision procedure.

Small Business Act for Europe promises Support for Europe's SMEs

Small and Medium Sized Enterprises (SMEs) have a crucial importance for the future development, but often face enormous bureaucratic hurdles and obstacles. To support these SMEs, the European Commission has unveiled the Small Business Act for Europe (SBA). The SBA sets out 10 principles which shall guide the implementation, such as granting a second chance for business failures and facilitating access to finance and enabling SMEs. The time needed to start a new company should be no more than one week, the maximum time to obtain business licenses and permits should not surpass one month. Where practical, the Commission plans to use concrete dates in a year for the entry into force of regulations affecting business. The European Commission has also proposed new legislation in four areas: The new General Block Exemption Regulation on state aids to increase the aid intensity for SMEs. A new legal form for a European Private Company „Société privée européenne“ (SPE) will be created and operate according to the same principles in all Member States. Thirdly, Member States will be offered the option to apply reduced VAT rates for locally supplied services.

Lastly, an amendment concerning late payments is foreseen in 2009 to ensure that SMEs are paid within the 30 day time limit stipulated. Member States are invited to take advantage of the update of the Lisbon cycle 2008 to reflect the SBA in their National Reform Programmes.

The SBA proposal goes hand in hand with the announced plans of the European Investment Bank Group to simplify and diversify the range of its instruments to support SMEs. The EIB and EIF announced that they will reinforce their cooperation to ensure an integrated approach. New instruments will be developed in areas such as mezzanine finance, guarantees and microcredit. Further details of the new measures will be announced later this year.



SME finance remains a key topic in Europe. How to support innovative SMEs will be discussed at the European Conference: Supporting Innovative SMEs



Read the full text of the Small Business Act

European News

Slow but Satisfying: The European Union Solidarity Fund

The Court of Auditors examined the European Union Solidarity Fund (EUSF). Up to the end of 2006 the EUSF provided aid of over one billion Euros in respect of 23 natural disasters. The Court found that the Fund did not provide a rapid response. The time taken between the application and the payment was usually about one year. Direct costs managing the Fund by the Commission were low and the Fund was working efficiently. The Court found no cases where the Fund showed a lack of flexibility in its treatment of applications for aid.

Despite the protracted process involved in obtaining aid from the Fund, states that received money were satisfied or very satisfied with the Fund. The Court recommended that the Commission provides detailed guidance to applicants and advice on how to achieve the prompt submission of applications.

European Council to return to Lisbon Treaty in October; meanwhile, ratification continues

The treaty, signed in Lisbon in December 2007, was drawn up to replace the draft European constitution, which was thrown out by voters in France and the Netherlands in 2005. It was thought to get in force on January 1st 2009.

However, if any of the 27 Member States fails to ratify it, it cannot enter into force. The treaty was rejected by Irish voters in a referendum on 12 June 2008. One week later Britain's House of Lords ratified the reform treaty. Thus the process of ratification continues. 20 Member States already ratified the treaty. The Czech Republic cannot complete the ratification process until its Constitutional Court delivers an affirmative opinion to the effect that the Lisbon Treaty is concordant with the Czech constitution. Poland's President Lech Kaczynski has refused to ratify the treaty as well. The European Council held extensive discussions on the outcome of the Irish referendum rejecting the Lisbon Treaty and the implications of this for the European Union. The EU leaders also stressed the importance of continuing to deliver tangible results in various policy areas of concern to citizens. The

Council agreed to Ireland's suggestion to return to the issue at the European Council meeting of 15 October 2008 in order to consider the way forward.

Inflation rises in EU Member States

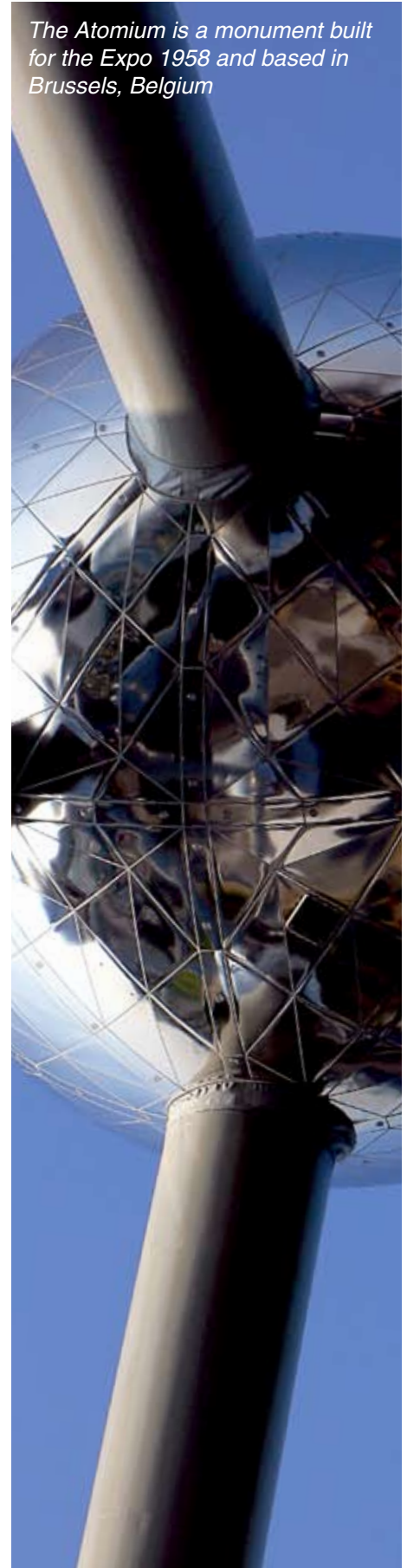
In the Euro area annual inflation was 3.7% in May 2008. A year earlier the rate was 1.9%. This is a little less than in the whole EU area. EU annual inflation was 3.9% in May 2008. A year earlier the rate was 2.1%. These figures come from Eurostat, the Statistical Office of the European Communities. In May 2008, the lowest annual rates were observed in the Netherlands (2.1%), Portugal (2.8%) and Germany (3.1%), and the highest in Latvia (17.7%), Bulgaria (14.0%) and Lithuania (12.3%). Compared with April 2008, annual inflation rose in twenty-one Member States. The lowest yearly averages up to May 2008 were registered in the Netherlands (1.7%), Denmark and Malta (both 2.3%), and the highest in Latvia (13.8%), Bulgaria (10.9%) and Estonia (9.3%).

In the Euro area the main components with the lowest annual rates were observed for communications (-1.7%), recreation & culture (0.1%) and clothing (0.7%), while the highest annual rates in May 2008 were food (6.4%), transport (5.9%) and housing (5.7%).

GDP per inhabitant varied across the EU27 Member States

Based on first preliminary estimates for 2007, Gross Domestic Product (GDP) per inhabitant varied strongly across the EU27 Member States. In 2007 the GDP per inhabitant was around the EU27 average in Spain, Italy, Greece and Cyprus. Austria, Sweden, Denmark, Belgium, Finland, the United Kingdom, Germany and France were between 10% and 30% above the average. Highest levels of GDP per inhabitant in the EU were registered in Luxembourg, Ireland and the Netherlands. Slovenia, the Czech Republic, Malta, Portugal and Estonia were between 10% and 30% lower than the EU27 average. Slovakia, Hungary, Lithuania, Latvia and Poland were between 30% and 50% lower, while both Romania and Bulgaria were about 60 percent below the EU27 average.

The Atomium is a monument built for the Expo 1958 and based in Brussels, Belgium



Upcoming Events

September 2008

European Conference: **S-110**
**Implementing Communication
 Plans for EU Funds**
 03rd - 04th September 2008, Berlin

The European Commission has published several documents that ask Member States' administrations to strengthen their publicity requirements on Structural Funds projects in Operational Programmes. As the new publicity measures are a required part of the programmes in order to be granted approval by the Commission and thereby receive the funds allocated to the region and assist projects to succeed communication strategies will gain even greater importance in the years to come.

European Conference: **K-60**
**Cluster Policy and Management –
 European and Regional Initiatives**
 22nd - 23rd September 2008, Berlin

European regions need more innovation and economic growth to catch up with the global challenges. National and regional governments have recognised the potential of clusters as a real driver in regional development policy. By taking determined actions public authorities significantly can improve cluster development. This results in strengthening local economies, creating new jobs and attracting new investors.



October 2008

European Seminar: **S-99**
**Management of EU funded
 projects**
 20th - 21st October 2008, Berlin

Managing EU-funded projects became an essential tool of implementing structural funding policy. In the 2007-2013 programming period the EU provides the Member States with a huge budget of 308 Billions Euro as well as with a new approach towards the regional policy. The new structure funds architecture gives on the one hand new funding opportunities and on the other hand it requires new strategies in management of EU-funded projects. Without efficient programmes of the Member states the optimal absorption of funding possibilities is impossible.



Workshop: **S-109**
Financial Control 2007-2013
 27th - 28th October 2008, Berlin

The purpose of this two day workshop is to familiarise you with the new regulations and provide you with strategies to comply with the requirements of the Commission. The exchange of know how and first experiences related to the new financial period 2007-2013 is another important part of the workshop. The audit requirements for the system audit, the on-the-spot audits, sampling and reporting will be presented and discussed in the sessions and exchanges amongst participants facilitated.



[More events in English language](#)



[More events in German language](#)

Personnel



Dr. Rainer Müssner

Desk Officer for Land-Use, Biodiversity and Water, German Federal Ministry of Education and Research

Dr. Rainer Müssner is now Desk Officer at the Department for Global Change Research at The German Federal Ministry of Education and Research. During 2007-2008, he worked at the ProManagement Agency of the German Aerospace Centre (Pt-DLR) as National Contact Point (NCP) for Climate Change and Biodiversity Research in FP7. In this function he gave advice to German scientists intending to participate in EU programmes. Dr. Rainer Müssner was a Senior Fellow at Ecologic from 2005-2007 where he conducted research for different DGs at the EC. Having a formation in Geography and Conservation Biology (PhD), the main emphasis of his work are the environmental effects of the EU Common Agricultural Policy and its subsequent regulations, biodiversity and nature conservation strategies and instruments. He has been commissioned as an evaluator for EU Framework Programme proposals. Dr. Rainer Müssner has an interdisciplinary education with a MSc in Physical Geography and a PhD in Conservation Biology.

Lieve Fransen

takes up Directorship of the Representations Directorate in the European Commission's Directorate General for Communication. She has occupied this post as acting Director since October 2007. Dr Fransen is responsible for 500 staff in two units in Brussels and in the EC's Representation offices in 27 Member States, developing and over-seeing the Commission's communication strategy at national and local level. Dr Fransen, a medical doctor by training, joined the Commission in 1993 after founding and directing the EC AIDS Task Force.

Barbara Brandtner

is now Head of Unit Enforcement and Procedural Reform, DG Competition, EU Commission. Since 2006 Barbara Brandtner held the position as Deputy Head of Cabinet in the Cabinet of Commissioner Neele Kroes responsible for Competition Policy. Her working fields included State Aid Law, External Affairs, Trade and Enlargement. Since April 2008 she is head of Unit Enforcement and Procedural Reform in the DG Competition.

Gordon Keymer CBE,

Leader of Tandridge District Council in Surrey, has been re-elected as UK delegation leader and Vice-President of the Committee of the Regions (CoR), the EU institution tasked with giving local and regional authorities a say in EU law-making. Councillor Keymer, who has served on the CoR for 10 years and is vice-chairman of its Commission for Financial and Administrative Affairs (CAFA). As well as being elected as Vice-President of the CoR, Cllr Keymer (Conservative) will be a member of the assembly's governing body, the Bureau.

Ambassador Jan Store

has been appointed by the Finnish Government as Permanent Representative of Finland to the European Union. He took up his duties on 1st July. Before this he held the position as Ambassador of Finland to Poland since 2004.

Ambassador Ferdinando

Nelli Feroci

took up his duties as Permanent Representative of the Republic of Italy to the European Union. Before his appointment he was Head of Cabinet of the Minister for Foreign Affairs.



Barbara Brandtner is speaker at the

German conference: European State Aid in German Practice

September 15th and 16th, Berlin, Germany



Dr. Rainer Müssner is speaker at the

European conference: Funding for Environmental Projects

November 3rd and 4th 2008, Frankfurt a. Main, Germany

Support activities to Information and Communication Units within Twinning project by Claudia Salvi

The Twinning programme, launched by the European Union in May 1998, is one of the principal tools of Institution Building accession assistance. Twinning aims to help beneficiary countries in the development of modern and efficient administrations, with the structures, human resources and management skills needed to implement the *acquis communautaire* to the same standards as Member States. Twinning provides the framework for administrations and semi-public organisations in the beneficiary countries to work with their counterparts in Member States. Together they develop and implement a project that targets the transposition, enforcement and implementation of a specific part of the *acquis communautaire*.

The main feature of a Twinning project is that it sets out to deliver specific and guaranteed results and not to foster general co-operation. The parties agree in advance on a detailed work programme to meet an objective concerning priority areas of the *acquis*, as set out in the Accession Partnerships. Since 1998, beneficiary countries have benefited from over 1,100 Twinning projects. The key input from the Member State administration to effect longer-term change is in the team of seconded experts, practitioners in the implementation of the *acquis*, to the beneficiary country, which may be a new Member State, or an acceding, candidate or potential candidate country. Foromez, the Italian Agency for Technical Assistance to the Local Public Administration constituted by Dipartimento della Funzione Pubblica (Public Administration Department of the Prime Minister's Office), is one of the Mandated Bodies recognized by the European Union and entitled to take part in Twinning projects together with the public administration. Foromez normally plays a double role within these projects: taking responsibility for project management and administration on the one hand, and providing technical expertise on the other, particularly in the fields of IT support, information and communication services and training systems design and development. Many Twinning projects awarded to

Foromez have concerned the implementation of the Structural Funds both in pre-accession Countries and in New Member States. These projects included support to the staff responsible for information and publicity activities related to interventions co-financed by the Structural Funds, including Units of Managing Authorities in Hungary, the Czech Republic, Poland, Romania and Bulgaria.

This assistance was supplied by Foromez experts at the same time as the company was managing in Italy a project of the Public Administration Department of the Prime Minister's Office which aimed to improve information on the interventions co-funded by the Structural Funds also through the use of Information Technologies; the updating and adaptation of structures and professional skills of the Regional administrations in charge of implementing Community Regulation 1159/2000, the contribution to the dissemination of the Structural Funds interventions throughout Objectives 1, 2 and 3 territories and the dissemination of information about the products and the results of Foromez projects funded by Measure II.2 "Development and Updating of the Structures and Staff in charge of Planning, Co-ordination, Management, Monitoring and Control of the Structural Funds Programmes" of the National Operational Programme "Technical Assistance and Systems Action for Objective 1".

The experience acquired in Italy during the 2000-2006 programming period was then transferred to the Pre-accession Countries and New Member States through a support activity which included training sessions, assistance in implementing the Communication activities in 2000-2006 programming period and in providing support in drawing up Communication Plans at the beginning of 2007-2013 Structural funds programming period.

The training sessions organised within Twinning projects focused on explaining the EU Communication Policy in general and the specific obligations required by the past 1159/2000 Re-

gulation and the recent 1828/2006 Regulations as concerned the drawing up of the Communication Plan. Other training sessions were focused on how to draw up and then implement a Communication campaign. During the support activity Foromez also drew up 6 guidelines on information and publicity on the following topics: how to draw up Communication Plans for 2007-2013 programming period; how to organise events on Structural Funds, how to organise a press office to communicate the Structural Funds, the Information and Publicity obligations for ESF Beneficiaries and how to create a website and publish a newsletter about Structural Funds.

The Head of Information and Communications of the Directorate General for Regional Policies, Ms Barbara Piotrowska from the European Commission, invited Foromez experts to present some of the material produced in the context of the two Twinning projects in Bulgaria on the occasion of an organizational workshop for an international conference. The event entitled "Telling the story. Communicating Cohesion Policies Together" on cohesion policy communications was held in Brussels on November 26th and 27th. Thanks to the participation of Foromez experts in the SFIT (Structural Funds Information Team), an informal workgroup set up in 2002 by the European Commission and, from 2008, in the newly established "INFORM" network on information and publicity interventions co-financed by the Structural Funds and promoted by the EC Directorate General for Regional Policy to encourage the sharing of experiences among the 27 Member States, Italian experts were able to transfer news and trends for the new programming period from the European Commission to the pre-accession countries and New Member States in a timely manner.



Implementing Communication plans for EU Funds

European Conference: 3rd-4th
September 2008, Berlin, Germany

Communicating with citizens and media –

why and how do we tell the story? by Clare Morgan

If a person walks into a restaurant and has a bad meal they will not go back there. If that person walks into a restaurant and has a good but expensive meal they might go back there. If a person walks into a restaurant and has a good, expensive meal and the story of the meal is told – “These eggs come from Mabel the chicken from the neighbouring town and this fish was caught by Mr Johnson who has caught good quality fish from his own boat for 30 years” – they will want to return!

Telling the story is an important part of everyday life and telling the story of Structural Fund programmes shows citizens what is being done and why and helps encourage businesses to invest in an area. This is why communication plays a major role in structural fund programmes and the Partnership Office for Cornwall and the Isles of Scilly (i) is all about communication. Cornwall is at the South West tip of England (including Britain's most southerly point at the Lizard Peninsula) and the Isles of Scilly are off its coast. The settlements of the region are scattered (with only six urban areas having a population of more than 20,000) and industries have historically been agriculture, tourism, fishing and tin mining. These industries, which mainly offered employment at the lower end of the wage scale, and the region's rural nature and lack of connectivity with major markets eg London is four to five hours by train or car and until recently there has been no broadband. have meant at best slow economic growth and at worst steady, long term economic decline. This resulted in qualification for an Objective One Programme in 2000 and the current ERDF and ESF Convergence Programmes which will run until 2013. The Programme investment has already made firm inroads into reversing that decline. In recent years – according to regional GVA statistics – the rate of economic growth of Cornwall and the Isles of Scilly has sometimes outstripped London, the UK's commercial hub. Along with communicating to partners and beneficiaries the main job of the Partnership Office is to communicate this message to citizens and it is done in a wide variety of ways. Top of the team is Carleen Kelemen, Director, followed by Mark Yeoman, Deput

Director. They have carefully chosen a team that offers a wide variety of communication skills including website management; creation of presentations; information collection and analysis; media coverage collection and analysis; event management; offering structural fund advice to the public (via a free telephone number) and the creation of media opportunities.

The final skill on offer is extremely important as the media is the best, most widespread way of reaching citizens. And the news media (we have not used paid advertising) is most effective as it is the most trusted. To maximise media exposure a journalist was employed. This means articles about individual projects and suites of investment can be written in a style and at an time attractive to written and broadcast media and bespoke articles can be targeted at certain sectors or individual publications. It also means that, importantly, relationships of trust can be built up with the individual reporters and editors. This trust is very important. It means the Partnership Office is known to produce good quality, fast, accurate responses and information. So how do we communicate the economic success story of Objective One and the ambitions for Convergence? How do we make the citizens of Cornwall and the Isles of Scilly aware of the work being done? The basis of the communication is the projects and within those projects – and this is something the media is most interested in – are the individuals (people and businesses) benefitting from higher wages, improved knowledge, growing optimism and a better style of life. Each of the following examples, thanks to European investment, has provided a rich source of such stories for the press:

- Thanks to the Objective One Programme the region now has the Combined Universities in Cornwall (itself a catalytic partnership of Higher and Further Education institutions) – offering young people – from Cornwall and further afield -- a wide choice of university level courses in Cornwall for the first time. The Unlocking Cornish Potential project follows this up by placing the graduates in local businesses and offering

ABOUT CLARE MORGAN

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financial and expert mentoring support.

- We have gone from zero to 99% broadband coverage thanks to the actnow project which also helps businesses how to use this tool effectively. Access to the region has been improved with investment in the main railway line and Newquay Cornwall Airport.
- The quality of local produce has risen dramatically and the tourism industry has responded similarly to the demand for higher standards of service and facility. The Eden Project, an internationally renowned visitor attraction, now has an education facility and a conferences; the website www.objectiveone.com Case studies of people and businesses are posted on the website. The people bring the projects to life. And on top of these stories good quality photographs make the story even better. Media opportunities are arranged -- for instance when a building opens or the first batch of university students celebrate graduation. Many of these opportunities are organised in partnership with the projects themselves. And on Europe Day in May Jobcentre Plus and the Learning and Skills Council (government bodies intended to encourage people into work and develop skills in the workforce) held an awards event to celebrate achievement in skills development of all kind -- Carleen Kelemen, as Director of the Partnership Office hosted the day on behalf of the Partnership, and this was not only a success in its own right but also attracted coverage on the radio, in local newspapers and in national ESF publications. So to sum up: the story is an integral part of the journey to a better economy. And the to help tell the story the art of good communication is based on trust; accurate, well articulated information and a good quality media friendly product.

footnote (1) – the Objective One Partnership Office for Cornwall and the Isles of Scilly was financed by the Partnership of eight local authorities, five Government agencies matched with Technical assistance from the Objective One Programme and supported by both the private and voluntary and community

New European State aid regulation and public credit guarantees

by Steffen Sühnel

Financial institutions may refuse financing companies, when the necessary risk assessment is difficult or expensive and collaterals are not sufficient. A State guarantee is an important tool to facilitate the access to finance for such companies, i.e. start-ups and other innovative enterprises. State guarantees are also appreciated by Member States to leverage the impact of their State budgets. They can increase private loans without requiring immediate contribution by the State, as a payment is only needed in case of default. In June 2008, the European Commission has adopted the new „Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees“ which clarifies the Commission's State aid approach regarding such guarantees. The notice is part of the Commission overhaul of existing State aid legislation as introduced with the State aid Action Plan (SAAP) in 2005. As part of the SAAP the Commission also adopted recently a new method for setting reference and discount rates according to market principles. It further reformed the regulation of State aid to Research & Development and State aid for environmental purposes as well as its approach to Risk capital and the „De-minimis-Regulation“ on minor State aid amounts. Next in line are the revised guidelines on „Rescue and Restructuring aid“.

Furthermore, the European Commission adopted in July 2008 the „General Block Exemption Regulation“ (GBER). This GBER brings together five existing block exemptions and adds three new ones, including block exemptions for aid to SMEs, research and development aid, start-up aid for female entrepreneurs, aid for employment, training aid, risk capital and regional aid. By using the GBER, the Member States need no longer notify a State aid measure to the European Commission prior to introducing it. The new guarantee notice clarifies the conditions relating to the presence or absence of aid in form of guarantees. Basic conditions for the absence of aid are: (i) the borrower is not in financial difficulty, (ii) the guarantee must be linked to a specific

ABOUT STEFFEN SÜHNEL



Since 1999 Steffen Sühnel worked in Brussels at the DG Competition at the European Commission. In the Unit for State Aid he was in charge for State aid cases for restructuring Eastern German enterprises. 2004 Steffen Sühnel changed to the Consultancy PricewaterhouseCoopers, where he is responsible for state aids. He is an expert in state aid, public credit guarantees, restructuring of enterprises and implementation of Private Investor Tests in different branches of industry.

This article reflects the opinion of the Author and not necessarily that of the Company PwC or the European Academy for Taxes, Economics & Law

European State Aid in German Practice

German Conference
15th-16th September
2008, Berlin, Germany

financial transaction, (iii) the amount and time must be limited, (iv) the guarantee does not cover more than 80% of the outstanding financial obligation and (v) a market-oriented price must be paid. If a guarantee is provided by a guarantee scheme, (vi) the scheme must be self-financing and the terms must be based on a realistic assessment of the risk and (vii) the premium has to be charged on the guarantee amount depending on the risk class of the guarantee.

The new guarantee notice also sets out the general rules how to quantify the relevant State aid on the basis of market references and risk analysis. This assessment is based on the Market Economy Investor Principle. According to this principle, State guarantees granted by public authorities may be considered to be compatible with EU State aid rules when they are made under conditions that a private market investor would have accepted. As a consequence, the methodologies primarily rely on proper risk assessment through rating and a comparison of market premiums for guarantees with the actual premium to be paid.

For Germany, the European Commission recently approved a method for quantifying the State aid in a state guarantee. The method is based on the rating of the company and also takes into account the guarantee premium to be paid, the duration and repayment of the underlying loan, the recovery rate and the appropriate market interest rate. A special State aid calculator can be found on the website of PwC

(www.pwc.de, keyword „Bürgschaft“), which is frequently used. The calculation method may also be used for companies that do not have a balance-sheet rating, such as young companies and special purpose vehicles.

Alternatively, also on basis of the new guarantee notice, Member States may use „safe-harbour“-premiums for determining whether a State guarantee involves State aid, i.e. for a given company and on the basis of its financial rating, the minimum premium that should be charged for a State guarantee in order to be deemed as not constituting aid. It may, however, turn out that the „safe-harbour“ premiums are rather high, i.e. for SMEs which do not have a credit history, the safe-harbour premium is set at 3.8% p.a., to be charged on-top of the interest rate to be paid for the underlying loan.

If the value of State aid is quantified, guarantees may be provided without prior authorisation by the European Commission if it complies with the new GBER or the „De-minimis“ regulation. These regulations are applicable not only for guarantees of small volumes but also for guarantees of high volumes provided the company has a good bank- or credit rating.

The new guarantee notice will help Member States to make appropriate use of State guarantees without infringing State aid rules. The European Commission thereby further makes its State aid policy transparent and more predictable.