



▶ Região Autónoma dos Açores ▶
▶ Autonomous Region of the Azores ▶



▶ Commission des Iles ▶
▶ Islands Commission ▶

30th CPMR Islands Commission Conference

- Azores, Portugal -

20/21 May 2010

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Commission des Iles ▶ Islands Commission ▶ Ö-kommissionen ▶ Επιτροπή των Νησιών

Comisión de las Islas ▶ Comissão das Ilhas ▶ Commissione delle Isole

Saarte Komisjon ▶ Kummissjoni ta'Gúejjer ▶ Ø Kommission

30th CPMR Islands Commission Conference

Azores, Portugal – 20/21 May 2010

FINAL DECLARATION

Gathered in the Azores on the occasion of the 30th annual conference of the CPMR (Conference of Peripheral Maritime Regions) Islands Commission, the European Island Regional Authorities whose name follows:

**Azores (PT), Balears (ES), Bornholm (DK), Canarias (ES), Gotland (SE),
Hiiumaa & Saaremaa (EE), Isle of Man (UK), Madeira (PT), Orkney (UK), Outer Hebrides (UK),
Shetland (UK), Sicilia (IT),**

First of all wish to thank the Government of the Azores, and the people of the Azores for kindly hosting their proceedings.

Adopt the following declaration together with the appended declarations:

- Take note than in its “EUROPE 2020” Communication, the Commission sets amongst its key priorities the promotion of “ *a more resource efficient, greener and more competitive economy*”, while “ *fostering a high-employment economy delivering social and territorial cohesion*”.
- Wish to express their full support for these ambitions, to which they can contribute in a variety of ways, not least of all by the possibilities offered by their geography, by the natural resources of their soil or of the neighbouring seas, or by the strength arising from the richness and diversity of their identities.
- Consider that to enable the islands to reap the benefits of “*A strategy for smart, sustainable and inclusive growth*”, as outlined by EUROPE 2020, it is fundamental that sustainable development be imbedded as closely as possible with the concept of territorial cohesion, since sustainable development will be meaningful to the islands and to their inhabitants only if it contributes in turn to strengthen territorial cohesion with the rest of the European Union
- Consider that it should be accepted by the European Union that, in the framework of Article 174 establishing territorial cohesion, special measures are likely be necessary to enable islands to seize fully the opportunities offered by sustainable development
- Consider that the concept of “attractiveness” outlined in the interim report of the ESPON study “Euroislands” encapsulates the key issue for islands, which is not so much one of comparative wealth with the rest of Europe, but which is to ensure that islands remain sufficiently attractive to retain their inhabitants and their economic activities; the concept of attractiveness being closely linked with issues such as accessibility, the provision of amenities (especially in the health and educational sectors) and public interest services (as energy, water, communication, transport etc), the quality of the environment, satisfactory standards of living, and the fostering of a thriving cultural identity.

- Recall that an adequate framework should be set-up, to embed the goal of territorial cohesion with the aims of sustainable development, meaning in practice that:
 - a) Island realities –human, economic, social, environmental - should be assessed in more adapted statistical instruments at the island level which is the only relevant functional area for islands
 - b) Islands situations should be dealt with certain flexibility by EU legislation, thanks to better governance mechanisms.
 - c) EU policies should acknowledge the consequences of the specific characteristics of the islands (small size, remoteness and isolation, particular rich but vulnerable natural and cultural environment) and the additional costs which are frequently arising from insularity, in order to ensure that they are taken on board by its financial instruments according to the principle of proportionality.

And in particular:

In the field of Regional Policy:

- Express the wish that the Commission’s forthcoming proposal for the post-2013 Cohesion policy to take the above points into consideration, and support the conclusions of the conference on “The recognition of Insularity in the European Regional Policy” organised by the Balearics Government under the aegis of the Spanish Presidency on the 26th April 2010 [see *Balearics Declaration “[Proposals for improving the way islands territories are dealt with by European regional policy](#)” - appendix 1 p. 9*]
- Endorse the criticisms expressed in the Critical note regarding the Commission Working Paper on the situation of “specific territories”, and call for DGREGIO and EUROSTAT to devise better and more adapted instruments of analysis [see Document “[CRITICAL ANALYSIS of the European Commission \(DG REGIO\) “Working Paper on Territories with Specific Geographical Features” \(02/2009\)](#)” (appendix 2 p. 13) & specific Resolution p.5],
- Calls for the future Cohesion policy to take the island dimension into account when defining its level of intervention, be it at the level of functional areas or at the level of macro-regions,
- Consider as a positive step the setting-up by the European Commission of an Inter-services Group to address Territorial Cohesion issues, amongst which the situation of territories with permanent and severe handicaps, and express the wish to be consulted by the group.

In the field of the EU Energy & Climate change:

- Express their thanks to the European Commission’s DG ENER and to the European Parliament for the support they have provided through the ISLE-PACT project , and support the latter’s ambitions [see specific Resolution – p.4]

In the field of Transport:

- Express their thanks to the European Commission DG MOVE for its cooperation in the framework of the seminar on Island maritime cabotage held in the island of Bornholm on 18/19 February 2010, and endorse the conclusions of the above [see [seminar’s Conclusions](#) – appendix 3 p. 25].

Environmental Context and Natural Hazards

- Draw the attention of the EU authorities to the fact that islands are environmentally extremely fragile and that many of them are exposed to natural hazards (risk of volcanic eruptions, earth tremors and extreme weather events, etc.) the impact of which is often increased in human and economic terms given that these territories are remote and their populations are concentrated in small areas.

Calls for the European Council of Ministers, for the European Parliament (and in particular its Inter-group on Islands, Mountains and Sparsely-Populated areas, and its Inter-Group on Maritime and Coastal Areas), for the European Commission as a whole, as well as for the Committee of the Regions and the Social and Economic Committee to support the above propositions.

Adopted unanimously

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APPENDED RESOLUTIONS

RESOLUTION ON THE ISLE-PACT PROJECT (Resolution presented by the Outer Hebrides)

The European Island Regional Authorities, gathered in the Azores on 20 & 21 May 2010 :

- Consider that they have both a moral duty as well as a vital interest to contribute actively to the efforts to reduce greenhouse gas emissions as proposed by the European Union.
- Consider that they have the potential to make a significant impact upon the EU's effort in combating the causes of climatic change not only by fostering a better use of energy resources in their territories, but also by developing their, sometimes considerable, renewable energy potential. This potential should be considered as one of their key assets, both on economic and environmental grounds; as well as a means to implement the objective of territorial cohesion as set out in Article 174 of the Treaty.
- Recognise that the purpose of the Pact of Islands is to strive to go beyond the objective set up by the EU for 2020, reducing the CO2 emissions in their respective territories by at least 20%.

In order to achieve this purpose there is a need:

- To obtain the political commitment of participating island authorities to achieve the objectives of the "Pact of Islands", a voluntary agreement similar to the Covenant of Mayors, promoting sustainability in island communities
- to plan for:
 - the preparation and implementation of Island Sustainable Energy Action Plans and
 - the preparation, financing and implementation of bankable projects
- to mobilise the civil society and other key stakeholders in our islands to participate in the development of the Action Plans and related bankable projects
- to undertake various actions to promote these Action Plans and their implementation
- Declare that, to fulfill such a commitment, they expect the EU and National authorities:
 - to bear in mind, especially in the future Cohesion Policy, the extra costs associated with the building of infrastructure as well as with implementation of policies when these take place in isolated and remote territories such as islands
 - to implement actively the provisions of article 170 of the Treaty of the European Union regarding Trans-European Networks, and the need to link islands and peripheral regions to the more central regions of the Community
 - To bear in mind the provisions of Article 349 of the Treaty of the European Union as it applies to the Outermost Regions

- to bear in mind that in territories which by definition are spatially limited, the designation of large areas under other environmental legislation may restrict excessively the development of renewable energy schemes, and, should conflict arise, to consider a balanced approach where the reduction of CO₂ emissions is a priority.

Implementation

The 2010 Annual Conference of CPMR Islands Commission

- I. Appreciates the efforts of the Council of the Outer Hebrides and ISLENET in securing funding for the Pact of Islands initiative through the EU co-funded project ISLE-PACT
- II. On the basis of the points outlined in the present resolution, supports the ISLE-PACT initiative and strongly encourages its members to sign and actively support the Pact of Islands.

Adopted unanimously

∴

RESOLUTION ON A SYSTEM OF STATISTICAL INDICATORS FOR TERRITORIAL COHESION

(Resolution presented by the Islands Commission Executive Secretary)

It is easy to understand that GDP is used for budget repartition between Member states, since GDP reflects economic productivity which in principle influences fiscal resources and therefore financial tools and means. A fact that is not entirely true for small island States.

But GDP cannot be the unique indicator of economic performance and social progress, even coupled with unemployment figures. It is the direction taken by European Commission and member States in the different studies under the label « Beyond GDP ».

A great number of studies are also under construction in order to create a set of indicators for environment and sustainable, social and economic performance of public policies (health, renewable resources, social link...).

But there is a vast working field ahead in order to create indicators for territorial cohesion. Apart from few studies, such as those of ESPON or some national organizations, almost no research is given to create indicators for territorial cohesion as such, considered as a coherent system.

To this day, very little data is available at another level than NUTS territories, and this absence induces the use of aggregated data without little or no operational value, such as the recent « Working paper on specific territories » provided by the Commission.

When it comes to specific territories, such as islands for example, indicators must, most of all, reflect territorial constraints which are not directly linked with socio economic level, such as **accessibility** (size, isolation, frequency and cost of transports, availability of private and public services...), **natural resources** (water, energy) and more generally **natural and cultural environment** (territorial vulnerability to pollutions, heritage, protected areas...).

Since specific territories are not known and studied as systems, in a context of increasing territorial differences, an intense methodological work of analysis and data collection must be made, not at a NUTS level, but at the level of functional zones (the zone where people live, work, access to services...) which mean at the level of islands or/and archipelagoes, in some cases, the infra-island level, mountains separated from the coast...

On the basis of the concept of Attractivity of specific territories, an « information system » must be created in order not only to produce data but to define a set of indicators funding and evaluating policies adapted to this territories, analyzed as systems.

At the level of an island for example, (a significant functional zone), the aim is to have a set of indicators, each one adapted to a policy priority. Here is an illustrative, if not comprehensive list:

- Transport/infrastructure: level of accessibility to selected services, size of the population concerned...
- State aids: size of proximity market, ponderation with seasonality...
- Environment : vulnerability index
- Energy: energetic dependence, REN potential...

Thinking the attractivity and producing better statistics on specific territories is a necessary step to evaluate the efficiency of European policies on these territories, and to measure the adequate level of flexibility and proportionality they require.

The Islands Commission of CPMR wishes to go « Beyond GDP and beyond NUTS » and ask the Commission to provide the means of organizing an « information system » on specific territories which will allow to measure, evaluate and take into account insular realities in a fairest way.

Adopted unanimously

ADMINISTRATIVE DECISIONS

List of the Political Bureau (Elected in the Azores, May 2010)

- **President**

AZORES

Carlos CESAR, Presidente do Governo Autónomo dos Açores (PT)

- **Vice Presidents**

ITALY

Raffaele LOMBARDO, Presidente Regione Siciliana (IT)
(Substitute for the President at CPMR Political Bureau)

GREECE - To be nominated

FINLAND - To be nominated

SPAIN

Francesc ANTICH I OLIVER, Presidente Govern de les Illes Balears (ES)

DENMARK

Willi GROSBØLL, Mayor, Bornholms Regionskommune (DK)

ESTONIA

Hannes MAASEL, County Governor (EE)

FRANCE - To be nominated

SWEDEN

Eva NYPELIUS, County Mayor, Gotlands Kommun (SE)

MALTA - To be nominated

UK

Alex MAC DONALD, Convener, Western Isles (UK)

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Forthcoming meeting

GENERAL ASSEMBLY OF THE ISLANDS COMMISSION

The 31th General Assembly of the Islands Commission will be held in spring 2011 in Saaremaa (EE) at the invitation of the Governor of the Region, Mr Toomas KASEMAA.

Appendix 1

**Summit “The recognition of insularity
in the European Regional Policy”**

Palma, 26th April 2010

**Proposals for improving the way
island territories are dealt with by
European regional policy**

Final Declaration

Regional policy is the main EU instrument for helping island territories to overcome their structural disadvantages and exploit their development and growth potential. Nevertheless, it needs to be improved in order to enable the islands, which are legally part of the internal European market, to fully benefit from it in both economic and social terms. A number of possible improvements are set out below.

1. Better assessment of the impact of insularity, and introduction of a more adapted framework

Regional policy reform must be accompanied by the creation of an **integrated EU framework for addressing the disadvantages faced by European island territories** in terms of development and competitiveness and allowing them to exploit their potential. **It is therefore essential that all EU measures and policies with an impact on European islands and island Member States should be preceded by impact assessments that take account of insularity.** Such impact assessments would contribute to the introduction of an integrated framework under which European policies could, where necessary, be adapted to the specific circumstances of island territories. This approach would help to avoid conflicts between policies and would also boost EU cohesion and growth by strengthening the role of islands.

2. Widening eligibility criteria based on per capita GDP

During the 2007–2013 programming period, per capita GDP was the only indicator used for determining regions' eligibility under regional policy objectives. This fails to take full account of the complexity of the notion of cohesion. The per capita GDP indicator insufficiently reflects the diversity of social, environmental and territorial circumstances, and does not take account of aspects such as innovation and education. New indicators must therefore be developed and used for determining regions' eligibility under certain instruments.

In the case of islands, the use of GDP as a criterion does not give a satisfactory insight into their real situation and it sheds no light on the ways in which islands differ from the rest of the EU territory. **New indicators, using more pertinent statistical data, need to be developed to provide a more faithful picture of the islands' development needs and a more satisfactory insight into the situation of regions with permanent geographical disadvantages.**

Highly territorialised statistical information is vital for understanding what is happening in the EU's islands, for identifying disparities and structural inequalities. Extra resources are therefore needed to gather data and develop appropriate indicators. Island territories should be considered as separate statistical units.

Particular care should be taken to avoid the situation, not uncommon, where islands situated geographically close to the mainland are included in a larger statistical unit at Nuts 2 level. As a result, their territorial situation, objectively quite distinct from that of the larger unit, is inadequately reflected. In many cases, archipelagos or islands themselves constitute a Nuts 2 or even Nuts 3 region.

Failing the classification of an island at Nuts 2 level, it is essential that the territorial situation of the island be assessed using the nearest statistical level for which data are available (for example, Nuts 3 level should be used to take account of an island's per capita GDP, rather than amalgamating the island with the neighbouring mainland).

3. Special consideration for European island regions

Article 174 of the Treaty, which establishes the objective of economic, social, and territorial cohesion, recognises that islands suffer from a severe and permanent natural handicap. It also states that particular attention should be paid to islands in actions to reduce the backwardness of the least favoured regions. In view of their various handicaps, especially their remoteness or small size, islands are least favoured regions from a territorial point of view and also often in economic and social terms. **Cohesion Policy should address the situation of the islands not just through Regional Policy, but also using other EU policies that have a significant territorial impact on the development of these regions.**

In addition, particular attention should be paid to islands that suffer from not one but several of the handicaps mentioned in Article 174. These include mountainous islands or those with a very low population density. The same should apply to archipelagos, which are affected by **double or multiple insularity** because they suffer additional disadvantages owing to their limited geographical size and the fact that they are made up of many small islands. Attention should also be drawn to the situation of numerous offshore islands, which are affected by the acute handicaps of micro-insularity. This exacerbates the disadvantages brought about by insularity and local people find it increasingly difficult to access a number of services.

European regional policy and other EU policies, besides acknowledging insularity should recognise that the resulting handicaps have a cost, and that where there are multiple geographical disadvantages, this cost is even higher. This recognition should lead to resources being made available in proportion to the severity of the disadvantages, the ultimate objective being to offer these territories development opportunities that are comparable to those given to all other European territories.

An additional characteristic of most of the European islands is that, as well as being islands, they are also peripheral regions situated on the EU's external borders. This geostrategic dimension should be given utmost consideration, for these territories are often exposed to the risks inherent in such a situation: proximity to conflict zones, exposure to clandestine immigration or various kinds of trafficking, vulnerability to accidental or deliberate marine pollution, etc. By implementing a policy of territorial cohesion that enhances the prosperity of these island territories and supports local people, the EU will also help to strengthen the security of its borders, and thus its own stability.

It is also important to note the significant contribution made by islands to the diversity of the Union both in environmental terms (habitats, endemic species, etc.) and in cultural terms (languages, architectural heritage, gastronomy, traditions, etc.). Special efforts should be made to protect this ethno-diversity and biodiversity, a heritage which in addition to its great intrinsic value also holds the key to ensuring sustainable development.

4. An integrated and flexible approach to the situation of island territories

An integrated (policy, legal, financial) framework should be introduced for dealing with the European islands. This framework should be sufficiently flexible to take account of the wide diversity of island situations.

The European islands undeniably reflect a wide diversity of situations, in terms of geographical size, demography, remoteness, availability of natural resources, climate, history and political context; but each individual island is also unique. The same measures and the same solutions cannot be uniformly applied to all the islands without taking this diversity into account.

However, it is also true that, in spite of this great diversity, being a remote and small territory is a factor that distinguishes islands from other European regions. Islands are vulnerable economically and ecologically; they are also places where the interactions between economic, energetic, social and environmental factors tend to be particularly rapid and severe and especially sensitive in view of the challenges of the climate change.

Perhaps more than other territories, what the islands need is an integrated approach that applies both horizontally (through a cross-sector approach involving the main policies that have a territorial impact, such as the common agricultural policy, rural development policy, common fisheries policy, national aid, etc.) and vertically (involving the regional, national, and EU dimensions).

At EU level, a first step towards such an integrated approach would be the setting up of an "inter-services" group within the European Commission with responsibility for the islands or more generally for all territories which suffer from severe and permanent natural or demographic handicaps.

The complexity and diversity of island situations also calls for a certain flexibility with regard to these territories in terms of EU legislation and policies. **The framework could be based on accepting the principle that measures adapting EU legislation can be applied to islands, provided that such measures help boost the territorial cohesion of the EU or comply with the proportionality criterion, and do not call into question the bases of EU policies, or significantly disrupt the functioning of the single market.**

One example would be the case of the guidelines for national regional aid, which authorise the granting of operating aid to offset part of the additional transport costs borne by firms. This measure, currently authorised only in regions with a low population density or in the outermost regions, could be extended to island regions without causing any specific distortions – the amount of aid being by definition in proportion to the costs borne.

5. Applying the proportionality principle in order to enhance territorial cohesion

It cannot be denied that as the process of European integration has progressed, insularity has to a certain extent come to be acknowledged as far as regulations are concerned. Examples of this are however somewhat uneven, and although some of them are worth underlining (in the field of maritime transport for example) we can hardly speak of a coordinated effort. It is on the other hand clear that in financial terms this recognition has been very

limited. While many islands have at some time benefited from structural policies, this support has usually been allocated on the basis of EU-wide criteria (in particular per capita GDP) and not on the basis of a recognition of their objective situation.

In many cases, however, the costs of implementing public policies are unquestionably higher in island regions (and even more in mountainous islands or archipelagos) than on the mainland. Importing goods or services, the absence of scale economies, geographical handicaps, etc. generally mean higher costs. **It therefore seems legitimate that, since the implementation of the same policy has a higher cost, these extra costs should be taken into account by EU policies, in line with the proportionality principle.**

Article 170 of the Treaty, on the Trans-European Networks, underlines the need to link island and peripheral regions with the central regions of the Union. **With a view to increasing the resources available for the trans-European transport, communication and energy networks, it seems legitimate that in order to comply with the obligations of the Treaty, proportionately higher resources should be made available for projects concerning islands regions.**

6. A review of cross-border cooperation rules is needed

The 2007–2013 programming period recognised European islands as being eligible for cross-border cooperation for the first time, under the regional policy territorial cooperation objective. This was due to the acceptance of maritime borders. Nevertheless, the introduction of a rule stipulating that there should be a maximum distance of 150 km between maritime border regions has meant that some islands have been excluded and cannot apply for cross-border cooperation projects. Similarly, although some European islands lie on EU's external borders, they have been excluded from cross-border cooperation under European neighbourhood policy.

These restrictions fail to take account of the fact that the sea is a natural barrier that separates territories irrespective of the distance between them. **This fact, along with the characteristics that islands share with many cross-border regions, such as limited accessibility, isolation and remoteness from the main economic centres of activity, justifies dropping distance-related criteria in maritime areas when it comes to classifying a maritime region as a border region or releasing the island regions of the said restrictions. Where it would be necessary to establish some kind of limit, it would be more appropriate for maritime and island regions for the cross-border territory condition to be applied at maritime basin level.**

Conclusions

If the reformed cohesion policy adopts these recommendations, it will only be fully effective in overcoming the disadvantages resulting from insularity if it is part of an integrated framework for EU policies for island territories. Only such a framework would be able to address all relevant issues faced by these territories consistently, and avoid possible conflicts between policies. This integrated framework should include the following fields:

- transport,
- education and work,
- research, technological development and innovation,
- competition and industrial policy,
- the environment, energy and water,
- agriculture and fisheries,
- health care systems,
- migration,
- culture.

All EU measures and incentives in these fields of action should be preceded by island territory impact assessments to ensure that EU measures and policies are better adapted to their specific, shared circumstances.

CRITICAL ANALYSIS
of the European Commission (DG Regio) Working Paper on
Territories with Specific Geographical Features (02/2009)

“There are two ways of obtaining an average temperature of 37.2°C. You can either take your temperature with a thermometer or you can put your head in the oven and feet in the freezer and then ask a statistician where the 37.2° midpoint is.”

INTRODUCTION

Whatever reservations one might have about the working paper published by the European Commission's DG Regio devoted to statistical data on **territories with specific geographical features**, or whatever criticisms one might have, the mere fact that it exists should be considered in a positive light. Until relatively recently, there were considerable gaps in EU statistical analysis, particularly regarding territories described as having "specific features", whose specific circumstances have long been purely and simply ignored.

To illustrate this situation, which goes back a long way, we will refer to the resolution adopted by island regional authorities in 1989 at the annual conference of the CPMR Islands Commission in the Azores [see Appendix 1]. This noted that even the situation of relatively large regions, such as the French overseas departments (the "DOM"), Madeira, the Azores and several Greek islands, was "little or even not at all" mentioned in statistical data published by the EU. So praise is due for the extensive work done over the last 20 years by Eurostat,¹ and sometimes also by DG Regio,² and occasionally the island regions themselves,³ to which the Working Paper on **Territories with Specific Geographical Features** seems to be the latest addition.

Which territories are they?

The remit of this study seems to have been determined by the terms of Article 174 of the Consolidated Treaty as drafted for the Lisbon Treaty [see Appendix 2]. This stipulates that, with regard to action for disadvantaged regions, "*particular attention shall be paid to ... regions which suffer from severe and permanent natural or demographic handicaps such as the northernmost regions with very low population density and island, cross-border and mountain regions.*"

There are two ambiguous points here. Firstly, the text of Article 174, which seems to have been drafted rather hastily, has, for politically expedient reasons, included border regions in the list of regions suffering "*severe and permanent natural demographic handicaps*", even though borders are evidently created as a result of human intervention and not brought about by nature.⁴ The distinction is important, because, while humans can rapidly remove a border and in the end eliminate its effects, it is, except in rare cases, totally impossible to flatten a mountain or join an island to the continent. Without seeking to deny the existence of specific problems in border regions, the phenomenon cannot be described as being "*severe and permanent*" in the same way as insularity, mountain environments, and even desertification due to extreme climate conditions.

Secondly, Article 174 of the Treaty very clearly uses the expression "*severe and permanent natural or demographic handicaps*", which is totally unambiguous (even though its applicability to all situations could be contested). This terminology is still completely absent from the Commission's working paper, which has nevertheless been produced in accordance with the provisions of this the Treaty (though it had not been ratified at that stage). The study just refers to "*specific geographical features*" and carefully avoids talking about any sort of "handicaps", thus suggesting a desire to reduce the scope of the provisions of Article 174 as much as possible.

This remark is even more relevant to the case of the outermost regions, which are curiously included in the scope of this study though, since the Treaty of Amsterdam, those regions have their own Treaty article, due to the specific complexity of their situations which cannot be equated to mere "particular characteristics". Their classification in a document focusing on territories with "particular characteristics" is meaningless, and conflicting with the spirit of the Lisbon Treaty which confirmed the differences of these territories with the outermost regions through dedicating separate articles to them. The part focusing on the outermost regions in this working document of the Commission is thus beside the point, and the references to the outermost regions in this paper are there only to "caricature" the results of the methodology used by the authors of the document.

¹ For example, the publication of the book "Portrait of the Islands" in 1994.

² The funding of a series of statistical studies on the situation of island, outermost and mountain regions in 2003. Various studies are also underway in the framework of ESPON.

³ Among other things, the work of the Eurisles Network, with the support of various national and regional statistical offices, in the Recite Programme. See also the paper "Off the Coast of Europe" produced by the CPMR Islands Commission.

⁴ Although the two factors may mutually strengthen each other, in cases where a strip of sea or mountain range marks the separation between the territories of two or more states.

We can now deal with the main content of the paper by setting out two types of criticism:

- 1) The analysis of specific territories⁵ is limited by persistent gaps in EU statistical analysis.
- 2) The analysis is not based on the objective reality of the territories examined, but has been conducted from the point of view of current EU legislation.

We shall examine the exact scope and utility of this working paper, and the way it might influence the preparation of future EU policies, particularly future cohesion policy.

1°) ANALYSIS OF SPECIFIC TERRITORIES IS LIMITED BY PERSISTENT GAPS IN EU STATISTICAL ANALYSIS

Faced with the limits of the EU statistical system, the working paper has adopted an approach based on the highest common denominator, namely the NUTS III statistical level. Although this is clearly a pragmatic approach, it is also very simplistic.

We should remember that for a very long time it was extremely difficult to obtain statistical data on territories described as “specific”, even at NUTS II level. Furthermore, the fact that some figures are now available at NUTS III level undeniably constitutes a step forward. It is easy to understand the technical reasons that led the author of the paper to use this level of the nomenclature, because much economic and social data would have no longer been available at a more detailed level. It was therefore necessary to strike a satisfactory compromise between the need to come down to a statistical level that “fitted” territories as best as possible, and the need to find comparable data at EU level, and even quite simply to find any data at all.

There is an inherent contradiction in the NUTS definition. On one hand, EU statistical analysis cannot increase the number of statistical territorial units *ad infinitum*, and it thus requires that they have a minimal size (between 150,000 and 800,000 inhabitants for NUTS III level). On the other hand, territories’ specific geographical, historical or administrative characteristics are unrelated to maximum levels of population.⁶ This contradiction can only be resolved politically and it is furthermore significant that in 2003, under pressure from the European Parliament, EU legislation on statistical classifications finally included a reference to the specific situation of islands and outermost regions.⁷

In the specific case of the Commission’s working paper, the decision to use NUTS III level is understandable because of the lack of immediately available alternatives. This has nonetheless generated a whole range of problems, for example:

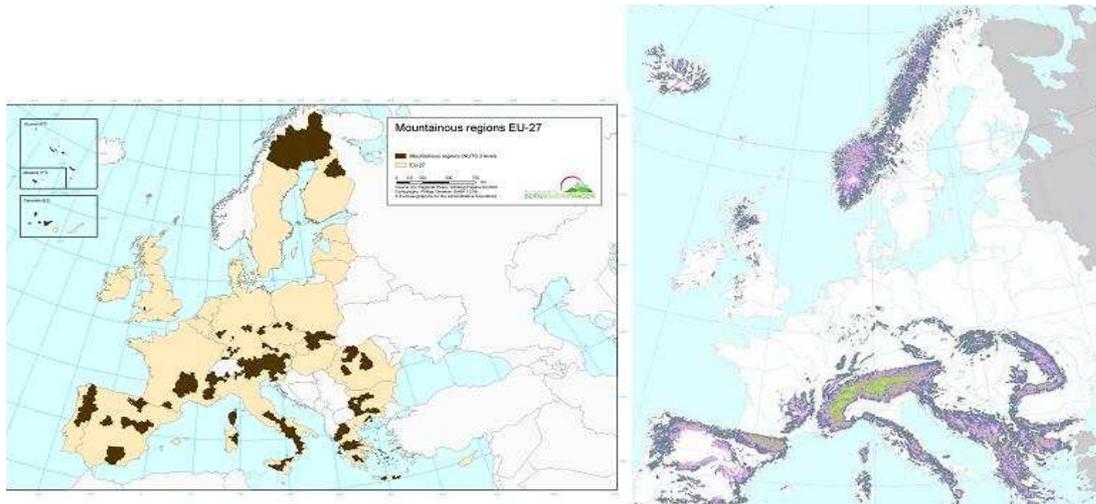
- The paper uses the NUTS III level as the unit of reference, and attributes a given geographical feature to it only if it is of a dominant nature (for example, over 50% of the population must live in mountain areas if it is to be classified as mountainous, the entirety of the statistical unit must be insular if it be classified as an island, etc.). Even though this is a rational method, it still eliminates several territories which are undeniably mountainous or insular, just because they are incorporated within a wider NUTS III region.

⁵ To adopt, with the reservations mentioned, the expression used by the Commission.

⁶ An example is the Åland Islands, an autonomous region in Finland, whose status is guaranteed by an international agreement. Because of their autonomy, the islands are classified as a fully-fledged NUTS II region, even though they only have a population of about 25,000. Åland thus inevitably has one of the highest per capita GDPs in the EU, which is baffling, as this sort of indicator is normally used for assessing a country’s productivity, and there is a high risk of distortion when it is applied at such a small scale.

⁷ Regulation (EC) No 1059/2003 of the European Parliament and of the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS), Article 3(2): “In accordance with the regulatory procedure referred to in Article 7(2), individual non-administrative units may however deviate from these thresholds because of particular geographical, socio-economic, historical, cultural or environmental circumstances, especially in the islands and the outermost regions.”

- The repercussions of the methodology used are particularly spectacular for mountain areas. The exclusion of all NUTS III areas with less than 50% of their population living in an area considered as being topographically mountainous purely and simply eliminates a substantial proportion of European mountain ranges. A glance at the map of NUTS III areas considered as being mountainous according to these criteria shows, for example, that much of the Alps, the Abruzzo mountains, or the Pyrenees have quite simply disappeared. For a more detailed analysis on the issue of mountain territories, please refer to the **note** (see appendix) **focusing on these territories, drawn up by AEM (European Association of Elected Representatives from Mountain Regions) and validated by Euromontana.** [Voir Appendix 3].



ON THE LEFT: Nuts III « mountainous areas » as defined in the commission's working paper.
ON THE RIGHT: European mountainous areas as viewed by a UN (Unep) Map.

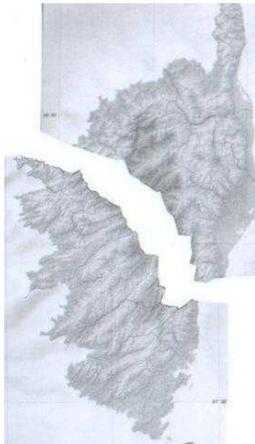
- Similarly, regarding islands, several thousand coastal islands off Sweden, Finland, Estonia, Denmark, Holland, Scotland, Ireland, Brittany, Italy and Greece and so on have thus been eliminated. All these islands are evidently part of the continental NUTS III areas and no longer appear. Their overall population is of course very small at national and EU level, but these people are no less affected by the constraints of insularity, which are exacerbated by the micro-insularity phenomenon.
- In the same vein, regarding archipelagos, individual islands have been eliminated (except in the case of the biggest archipelagos, such as the Canaries or the Balearic Islands). However, the issue of "double insularity" in archipelagos should not be dismissed. This is clearly an aggravating factor in terms of communication, access to services and market size.



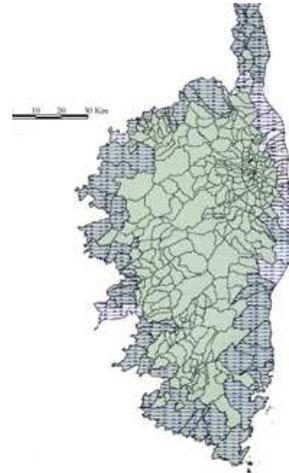
ARCHIPELAGIC REALITY:

The Aegean Islands (5 NUTS III areas), with less than 500,000 inhabitants, cover an area similar to than of Germany from North to South, with its 80 million people.

- Paradoxically, the use of the NUTS III level leads to an artificial increase in the number of islands making up homogenous groupings. The paper thus shows that there are 56 island regions in Europe (in fact 56 NUTS III areas located in islands) while in fact the EU only has 24 island regional authorities and three island states. To cite just one example, Corsica, which is subdivided into two NUTS III areas (Haute-Corse and Corse du Sud), is thus “deconstructed” into two islands, irrespective of the geographical reality. In the case of this region, it would no doubt have been more appropriate to adopt a territorial approach that differentiates the largely deserted mountain area in the island’s interior from the coast, where the main cities and the majority of the population and economic activities are located.



Corsica is artificially deconstructed into two NUTSIII areas



The reality of Corsica: a mountainous island, will costal and mountainous municipalities.

These examples clearly demonstrate that the NUTS classification as it is currently used is a very imperfect and even unsatisfactory tool for understanding the situation of these territories.

Furthermore, one of the apparent objectives of this study was to undertake a cross-analysis of the impact of diverse geographical characteristics (for example the situation of mountain areas or sparsely-populated mountain areas, etc.), but the result is most disappointing because of the absence of a more detailed and better adapted statistical level of analysis. It is ultimately difficult to assess the combined or intensified influences of several geographical characteristics when a substantial part of the territories is not taken into consideration or cannot be distinguished from the outset.

More broadly, we will also examine the utility of undertaking comparisons, and above all of determining statistical averages, by including in the same category territories which may share a particular characteristic but are

otherwise totally different and unrelated. For example, what is the point of asserting that the population of territories with a low population density has slightly increased when this is based on the average between Amazonian Guyana (where the population is growing) and Lapland (where the number of inhabitants is on the decrease). A superficial analysis of this average might lead one to conclude that the situation of territories with a low population density is improving, whereas both Guyana and northern Scandinavia are facing difficulties that require very different remedies.

2°) THE ANALYSIS IS NOT BASED ON THE OBJECTIVE REALITY OF THE TERRITORIES EXAMINED BUT HAS BEEN CONDUCTED FROM THE POINT OF VIEW OF CURRENT EU LEGISLATION.

We have seen that the use of the NUTS III level has automatically removed a large proportion of mountain areas, all coastal islands and the majority of individual archipelago islands from the analysis of territories with specific geographical features. Perhaps this is justifiable because no better instruments existed and necessity determined the rules. However, this argument can scarcely be used in other aspects of study, where the definitions selected are not founded on the real situation of these territories, but on certain provisions within EU policies.

This is the case for border regions defined as NUTS III areas which are eligible for cross-border cooperation programmes under the ERDF Regulation. This corresponds to all of the Union's internal land borders and some of its external borders. For maritime borders, only regions where the border is less than 150km away are taken into account. Regions neighbouring EFTA member countries or those covered by the ENPI and IPA instruments are also concerned.

The result is rather extraordinary, and some of the most spectacular examples are cited below. In the Mediterranean, the application of this rule means that archipelagos such as the Balearic Islands are not considered as either internal or external EU borders or even maritime borders (the same applies to the Palermo area in Sicily) ... which will certainly surprise anybody who has even a basic knowledge of the history and geography of the Mediterranean area. In the north of Europe, the same thing applies to the Orkneys, Shetland and Outer Hebrides archipelagos, which would certainly have surprised the Vikings, who used these islands in their conquest of the Atlantic and Europe's western fringe from as early as the ninth century.

The case of the outermost regions is even more extraordinary. While the Commission's working paper concedes that Fuerteventura, Gran Canaria and Lanzarote in the Canary Islands are clearly EU external borders, they are the only outermost regions to be given this privilege, presumably due to the Sahara sand storms that reach their shores. However, this classification does not apply to the rest of the archipelago, or to Madeira and the Azores, which can no doubt put the fact that they are not borders at all, even maritime borders (something of which King Henry the Navigator of Portugal was clearly unaware), down to their noteworthy isolation in the middle of the Atlantic. The top prize goes to the French overseas regions, because none of the DOMs (the island of La Réunion in the middle of the Indian Ocean or Guyana between Brazil and Surinam) are considered as EU external borders, whereas they are all quite extraordinarily labelled as being "internal borders" (but might this just be a word-processing error?).⁸

Such bizarre statements make it easy to lampoon the paper. They nevertheless raise an extremely serious problem: can one accept that territorial realities are assessed by the yardstick of provisions drawn from EU regulations, even though this results in manifestly false assertions? Would it not be better, yet again, to use more suitable definitions or criteria?

This intention is clearly present in the working paper, and it should be emphasised that a positive effort is made to grasp the nature and intensity of certain territorial features that are very characteristic of the territories studied, such as their environment and degree of accessibility. Not having the methodology or data that have been used to draw up such indicators, we will refrain from criticising them here. Nevertheless, one might ask whether these indicators have really taken local realities into account? Is it understood that it is difficult to measure the accessibility of a service just using the distance in kilometres? A mountain road is not same thing as a motorway on the plain, and leaving minor islands to go to hospital, a university or an airport can be much more time-consuming

⁸ Although this assertion can nevertheless be fairly (and probably unintentionally) made in the case of the island of Saint Martin in the Guadeloupe archipelago, which has a French zone and a Dutch zone.

and difficult than just crossing a bridge. While it is true that the indicators used refer to a time “over” 30, 60 or 90 minutes, for some territories the difference can be measured in several hours and even days.

This caution is justified by the fact that most studies on the accessibility of territories take little or no account of the impact of insularity: the total absence of road and rail links, the overdependence on air transport, and the prevalence of maritime transport which operates in conditions that can in no way be compared to road transport (in terms of frequency, waiting times for loading and unloading, etc). In the case of outermost regions, air transport is essential, especially for passenger transport outside the region. In such a context, a comparison based for example on a weighted index combining road, rail and air traffic data serves no purpose.



APPARENT AND REAL DISTANCES:

Statistical indicators must reflect the fact that distance in kilometres is not akin to remoteness. This map reflects the real crossing time to a selection of islands (waiting time, loading and unloading, navigation...) and reposition them in relation to a symbolic point located in the EU centre (here, Maastricht).

CONCLUSIONS:

THE NEED FOR A TERRITORIAL APPROACH TO TERRITORIAL ISSUES, AND A SPECIFIC APPROACH FOR TERRITORIES WITH SPECIFIC FEATURES

The Commission’s working paper concludes that:

“The main implication of such observations is that the categories of specific territories are far from constituting homogenous groups of regions. Moreover, for regions facing difficulties, the disadvantage syndrome is generally made up of several types of constraints which are not systematically the same within a given category of territory. It follows that it is difficult to use such categories as a reference for setting up specific regional development programmes. In fact, such an approach is likely to be ineffective. The wide range of differing situations and performances within each category instead calls for a case by case approach where policy interventions are specific to the local context rather than to a given type of territory.”

Firstly, there was absolutely no need for a study just to learn that there are extremely varied situations in given categories of territories: Guyana is not Lapland, Ushant is not Sicily, and the hills of the Highlands are not the high peaks of the Alps, and so on. However, is the purpose to establish balanced classifications of homogenous groups needing standard policies? Or is it not, on the contrary, to acknowledge the diversity of European territories, including in its extremes, and to understand the need for a flexible approach on this issue within EU policies.

The paper’s conclusions are correct when they state the need for a “case by case” approach, but they are extremely contentious when they deny the utility of specific development programmes. But perhaps an effort should be made

to avoid interpreting the term “specific development programme”, which is used in a negative manner in this paper, as the implementation of a single and same policy for all specific territories, or each category of specific territories. This would effectively mean denying the diversity of their problems and thus prevent the development of appropriate solutions.

So it would no doubt be best to replace the term “specific development programme” with “specific framework”, in other words the creation of a framework (legal, political, financial) permitting EU policies to intervene in these territories with all the flexibility they need in order to respond on a case by case basis to their strengths and difficulties and enable them to exploit their opportunities in the best way possible.

This approach can evidently not be used independently from the principle of proportionality, and the key question in the debate on territorial cohesion, and more specifically in the approach to be adopted for “specific” territories is: how far can one go when implementing the principle of flexibility? Up to what point can derogations be made? The answer to these questions is fundamentally political, but it must be based on certain criteria. Which ones? This is where the nature and degree of detail of the indicators used for assessing specific territorial features become very important.

The Commission’s working paper shows that, even in a document on territories with specific geographical features, the use of genuinely territorial indicators such as accessibility or the environment is rare. Yet again, emphasis is given to analysis using traditional indicators such as per capita GDP or unemployment levels, which are respectively in the economic and social field. Paradoxically, the implementation of territorial cohesion, which is newcomer to EU policies in comparison to economic cohesion and social cohesion, must continue to use the same indicators, rather than develop its own evaluation criteria. It is scarcely surprising that people start talking at cross purposes: some people talk about accessibility and vulnerability, while others respond by talking about unemployment and GDP.

All this suggests the need for a complete overhaul of the way the situation of these territories is dealt with.

Is it at all costs necessary to seek to compare their situation to that of the rest of the EU if, in doing so, we have to use instruments which ignore or distort their realities.

Now the Treaty acknowledges the existence of “territories with specific features” (not to mention “territories with severe and permanent natural demographic handicaps”, as well as the outermost regions), should the statistical system not itself be adapted to them, or at least permit different approaches?

So, instead of having a European comparison that is of limited use because it is based on simplified indicators or frameworks, should priority not be given to an approach based on specific indicators and on functional areas?

The questions raised here are clearly of the greatest importance for territories with the most pronounced specific geographical or demographic features, and, as Article 174 of the Treaty recommends, they should be given “specific attention”. However this in no way excludes the adoption of the same sort of approach for other EU territories, such as peripheral or coastal areas for example.

APPENDIX 1

Resolution adopted unanimously by the Annual Conference of the CPMR Islands Commission, held in the Azores on 19 May 1989

ON THE RECKONING OF THE ISLANDS DIMENSION BY COMMUNITY STATISTICS

Being aware of the importance of statistical data in the framing of Community policies, the island regions of the EEC wish to express their concern about the existing statistical approach to their problems.

1°) They are, firstly, concerned that, for one reason or another, many of them are either little or even not at all mentioned in statistics published by the Community. Such is the case with the French D.O.M., Madeira, the Azores, the Scottish archipelagos or numerous Greek islands. Such is the case, even more so, with the smaller coastal island communities because there often accurate difficulties are hidden by their integration to neighbouring mainland units.

Such a situation is prejudicial to the individual situation of the European islands, but is also detrimental to the efforts, which are being undertaken to achieve a global understanding of the situation of the islands, and of their capacity to integrate in the Single European Market.

Consequently, the European Island regions ask the EEC Commission to extend, as soon as possible, its publication of statistical data to all the aforementioned regions.

2°) Moreover, the island regional authorities notice that when data is published, it reflects often poorly their special position within the Community

- either because data which has been processed at national or at Community level becomes - through unavoidable technical readjustments - too imprecise to describe their true condition without distorting it;
- or because the statistical measurements which could illustrate their unique socioeconomic situations have not been created, or not been used.

Consequently, the island regions wish to ask the Commission's appropriate services and Statistic National Institutes to collaborate with them on the following programme:

- to study the means of improving Community, National and Regional Statistics on Island Regions;
- to study which specific statistical measurements would enable a satisfactory understanding of the islands socio-economic conditions, and allow a following of their evolution;
- to set up a specific statistical programme which shows the priority action fields and the necessary resources.

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APPENDIX 2

Article 174
(ex Article 158 TEC)

In order to promote its overall harmonious development, the Union shall develop and pursue its actions leading to the strengthening of its economic, social and territorial cohesion.

In particular, the Union shall aim at reducing disparities between the levels of development of the various regions and the backwardness of the least favoured regions.

Among the regions concerned, particular attention shall be paid to rural areas, areas affected by industrial transition, and regions which suffer from severe and permanent natural or demographic handicaps such as the northernmost regions with very low population density and island, cross-border and mountain regions.

THE SITUATION OF MOUNTAIN TERRITORIES

AEM's Contribution

CRITICAL ANALYSIS

on the Working Paper of the European Commission (DG Regio) on Territories with Specific Geographical Features (02/2009)

Is the choice of the NUTS 3 level relevant?

Regarding mountain regions, the matter of delimitation is not a relevant problem. There are more appropriate paths which can contribute to adoption of a more adequate and comprehensive scheme. Instead of using the NUTS 3 level, as it is done in the Working paper, AEM suggests to use the NUTS 5 level to consider mountain regions. DG Regio could also refer to other EU related papers and develop a more appropriate model. Concretely, we can propose three of them:

- Since the Directive 75/ 268, an **upland zoning** has been used to consider less favored areas , in the framework of the Common Agricultural Policy (CAP). More precisely, this zoning was designed to determinate eligible zones for Compensatory Allowances for Natural Handicaps (CANH), according to the transposition of the directive into the French law.

This measure is currently being reformed (in the framework of the Rural Development Policy 2007 - 2013). It reinforces a strict delimitation of mountain territories. According to this framework, a major part of EU Member States (or Regional Authorities) could define their mountain orientated public policies.

The zoning has been based on geo topographical indicators (slope and altitude) and leans on two main classification levels: NUTS 5 level (municipalities) and "agricultural field" level. This classification exists in all Member State.

- Moreover, DG Regio has asked the Nordregio Institute for a study on mountain areas in Europe, in January 2004 (appendix 1 of the working paper in the "topographic definition" section). Several positive and negative regards of the Nordregio study have largely been discussed, especially the overemphasis on the climatic criteria regarding the topographical indicators. However, **it is important to underline that this study provided a list of mountain municipalities (NUTS 5) according to this large delimitation.** (because of the emphasis on the climatic criteria recommended by DG Regio, the study defined sparsely populated Scandinavian territories as mountain regions).

Nordregio's study help us to understand better realities of mountain ranges (massifs)and their diversity.

- Finally, the European Environment Agency (EEA) is prepares a study on land use in mountain regions⁹. It is supposed to deliver additional information on the territory's reality. There are other similar on-going studies, including ESPON's study on territorial diversity.

These three leads demonstrate how the mountain classification proposed by the working paper is problematic and paradoxical. The attempt of DG Regio to provide a general delimitation makes disappear specificities of each mountain region which are so important in order to achieve the "territorial cohesion objective". This "special delimitation " of mountain territories has an even worse collateral damage: it erases a half of EU mountain regions! The leads previously listed prove that **the European Commission has already existing tools far more adequate than the one used in the Working paper.**

Moreover, previous leads are based on more local statistic indicators, notably using the NUTS 5 level.

Certainly, it was necessary to find a balance between an appropriate statistic level, well adapted to territories, and to find similar features at European level. Nevertheless, it is necessary to have precise geographical information

⁹ 'Integrated assessment of Europe's mountain areas', EEA, to be delivered in June 2010.

and indicators at European level. In fact, this is a real weakness of European institutions: DG Regio should consider that the topography of European mountains and islands have not been significantly modified since 2004. As a consequence, 2003 and 2004 previously quoted study is still highly relevant in today's debate, at a geographical level.

A paradoxal use of non relevant criteria to define political attention

Additionally to the debate on indicators (NUTS 3 or NUTS 5), the Working paper introduces a demographical criteria (social cohesion) which is arbitrary and questionable. It blurs any attempt of coherent and operational reading. **This mix of demographical and geographical indicators is particularly irrelevant when it comes to identify the specific stakes regarding EU mountain regions.**

The omission of NUTS 3 entities with less than 50% of the population living in the area topographically considered as mountainous simply makes disappear a substantial part of EU mountain massifs. **A quick look at "NUTS 3 mountain areas" map shows that an important part of Alps, Abruzzos, Carpathians, Greece, Massif Central, Cantabrian Mountains, and Pyrenees simply disappears!**

Mountain habitants often move to close valleys or piedmont, in order to benefit from industries and particular know how developed in mountains, to access to commercial intersections or to benefit from transport connections. This concentration develops larger agglomerations and then makes disappear the mountain area from the classification! Even if mountain characteristics have a strong influence on their organization, economic activity, culture or environment.

This analysis also works for every NUTS 3 entity which has been developed in valleys (what is historically the case in several mountain ranges).

To sum up, there is a high amount of specific cases for which the classification proposed by the working paper does not fit. This proves a notable incoherence that would eventually lead to irrelevant public policies, since an important part of the EU specific territories would not be considered as such.

By ignoring an important part of the EU mountain regions, some of them have to face a **double negative effect**. **Mountain habitants that have most suffered from isolation and moved to piedmont or valleys are then not considered as being a part of mountain region anymore!**

A necessary adoption of new criteria: towards a "mountain massif" policy

Besides the proposition of irrelevant indicators, the Working paper fails to consider mountain territories properly by trying to consider them the same way as previous EU programs or European policies did. By doing so, **the DG Regio disregards important territorial links between mountain territories.**

More than 50% of border areas are mountain areas as well. We should not forget that during the last 150 years, European borders have notably changed and that European cooperation programs aim to blur the border effect and to consolidate the transnational character of territories. Therefore, **it is imperative to consider the strong organic links that shapes mountain territories.** Instead of considering them with inadequate indicators, the European Commission should privilege a specific approach based on topographic indicators in order to define better "territory- orientated" policies. The European Commission should also take into account macro-regional or intraregional cooperation.

Regarding mountain territories, AEM proposes an innovative European approach which is inspired by the French legislation and its "Mountain Law" (1985): **The "mountain massif" policy.** This law argues that *"mountain zone and its contiguous zones form a single geographical and economical entity, which constitutes a massif"*.

Such a perception is far more coherent and suitable. Mountain territories are not only *stricto sensu* mountain areas. There are fully linked to valleys and piedmont, especially on economic and administrative level. The "massif approach" offers a much more **subtle perception of the territorial cohesion in mountain regions.** By doing so, it is far more adequate than the classification adopted by DG Regio's Working paper.

Mountain territories should not be considered apart from their natural and historical reality. A "massif territory" includes the links gathering both urban and rural dimensions, natural and zones, valleys and mountain, piedmont and massif.

AEM recommends the DG Regio to adopt a more locally - based classification (NUTS 5) to delimit European mountain regions. If valleys are historically, economically and naturally linked to piedmont and to their contiguous plains, all of them form a coherent territory (a “massif”) that must be listed as a single mountain territory in order to benefit from a coherent and adapted financial and legislative framework.

For example in Alps, we count 60 million habitants, if we consider valleys, towns and metropolitan areas, but it is reduced only to 15 to 20 million habitants following the Working paper. In this case, we can't develop a macro-regional approach (i.e. macro regional strategy for the Alpine region). As a result, the alpine case is a perfect example to illustrate the debate on the appropriate level to use in European territories-orientated policies.

Conclusion:

According to our analysis, the classification adopted by the DG Regio Working paper turns out to be strongly inadequate for mountain territories. This analysis proposes more relevant leads and puts in the European Commission's hands all the necessary tools in favor of innovative mountain - oriented territorial cohesion policy. Such an innovative policy would definitely be a new and major step towards territorial cohesion, based on multilevel governance principles.



Appendix 3

CPMR ISLANDS COMMISSION WORKSHOP ON TRANSPORT

18/19 February 2010

BORNHOLM, DANEMARK

CONCLUSIONS & RECOMMENDATIONS

Introduction

Organised jointly by Bornholm Regionskommune and by the CPMR Islands Commission, the workshop on island transport held in Bornholm on the 18/19 February 2010 has gathered representatives from 12 island regions¹⁰, 3 national authorities¹¹, various organisations and shipping operators¹² as well as the European Commission DG TREN.

Apart from a presentation of the recent evolution of air transport legislation, the workshop essentially focused on maritime transport issues, and in particular on the Commission's 5th Report on Maritime Cabotage. The situation of various island regarding maritime services was highlighted by presentations from the Azores, Balearic Islands, Corsica, Sardinia, Sweden and Scotland.

EU maritime cabotage legislation: an example of governance for the islands?

The EU's unofficial motto is "Unity in Diversity", and this expression seems to be tailor made to describe the condition of islands in general, and of island transport in particular.

Indeed, EU Islands present an extreme variety of situations when it come to the latter, ranging from access to small inshore islands, a few miles distant, to maritime routes to the Outermost Regions crossing a whole Ocean. The same diversity applies to the size of population serviced, the local weather conditions, the nature of traffic flows, etc.

As may be expected, transport problems vary in nature and in magnitude from one island to another, and even from one route to another, and so does the way they are dealt with, and the solutions which are found.

Thus, whilst the Balearics will complain of the insufficient level of competition, if not the existence of quasi-monopolies on some routes, Corsica will highlight some of the adverse effects of strong competition for the public purse. Bornholm will describe how the reshaping of its maritime services has led to the loss of 300 jobs, when the UK will highlight the safeguard measures existing in case of transfer of undertakings. Sardinia will explain that its strategy rests upon joint public/private partnerships, when Sweden will favour separate tendering for the provision of vessels and the provision of services...

¹⁰ Gotland, Bornholm, Saaremaa, Shetland, Comhairle nan Eilean Siar, Argyll & Bute, Azores, Balearics, Sardinia, Corse, Guadeloupe, Martinique.

¹¹ Denmark, Sweden, Ireland.

¹² INSULEUR, Nordic Ferry Services, Caledonian MacBraynes.

As to who should oversee maritime services, solutions are equally diverse. For some, ferry services should be under the remit of national authorities, for others under regional ones. However, there are cases where one level of government wishes to take over more responsibilities, others where it does not, and cases where the matter is still being hotly debated.

Against this near infinite variety of situations lies the EU's "Council Regulation (EEC) No 3577/92 of 7 December 1992 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage)", of which roughly 300 words deal with the specific issue of Islands Cabotage, essentially to enable the imposition of Public Service Obligations (PSOs) or Public Service Contracts (PSCs) on island routes.

It is quite remarkable that this very succinct framework has, to this day, worked reasonably well to address such complex, diverse, and case-by-case issues as the provision of maritime services to island communities¹³. This is undoubtedly due to the fact that the Regulation has been applied with a certain degree of pragmatism and flexibility by the European Commission, and that whilst the body of the Regulation itself has remained unchanged, it has nevertheless evolved through a succession of Interpretative Guidelines or Communications¹⁴, not to mention the influence exerted by a number of rulings from the European Court of Justice.

By setting-up a broad framework of derogation, with sufficient leeway to adapt to local situations, the Maritime Cabotage legislation may be considered as an example on how EU law and policies can be adapted to island conditions while abiding by the fundamental goals laid out in the Treaty. It is a noteworthy illustration of the type of practice which should be followed in the field of European governance and, in particular, in the way territorial specificities should be dealt with. Similar mechanisms should be applied in other fields of EU policy which are of key interest to islands, or to territories beset by permanent and severe geographic and demographic constraints, as defined by Article 174 of the Treaty.

Of course, having praised this legislative framework does not mean that the Cabotage Regulation, or more generally that EU legislation on maritime transport, are above criticism, or that there is no need for further adaptations or improvements. On the basis of the discussion which took place in Bornholm in February 2010, the Islands Commission of the CPMR would henceforth wish to make the following recommendations.

i) ANAV Ruling

The European Commission has confirmed the applicability to island cabotage services of the ANAV Ruling (Case C-410/04 Judgment of the Court (First Chamber) 6 April 2006; i.e.:

"Articles 43 EC, 49 EC and 86 EC, and the principles of equal treatment, non-discrimination on grounds of nationality and transparency do not preclude national legislation which allows a public authority to award a contract for the provision of a public service directly to a company of which it wholly owns the share capital, provided that the public authority exercises over that company control comparable to that exercised over its own departments and that that company carries out the essential part of its activities with the controlling authority."

It is understood that tendering may not be required if the aforesaid conditions are met. However, a degree of uncertainty exists about the full implications of ANAV Ruling (e.g.: is it applicable to the provision of services at national, regional or local levels?).

It would be useful if precisions about the impact and applicability of the ANAV Ruling were provided in a future Communication by the Commission.

¹³ The EU has two small island states (Malta and Cyprus), 24 island regions, and literally thousands of small inshore islands.

¹⁴ Communication on the interpretation of Council Regulation (EEC) No 3577/92, Brussels, 22.12.2003, COM(2003) 595 final; Community guidelines on state aid to maritime transport, 17.1.2004, Commission Communication C(2004) 43 (2004/C 13/03); Communication updating and rectifying the Communication on the interpretation of Council Regulation(EEC) No 3577/92, Brussels, 11.5.2006, COM(2006) 196 final.

ii) Maximum contract period for PSC

The issue of the maximum duration of a PSC raises conflicting views with, on one hand, the need to foster competition, and, on the other hand, the necessity for operators to be guaranteed a sufficiently long period of stability. The prevailing view seems to be that the present 6 year limit is somewhat too short, considering the time required for the depreciation of a vessel, the variations of the second-hand market for ships, as well as miscellaneous uncertainties (evolution of fuel prices, of capacity requirements, of environmental legislation or of technologies, etc).

As a consequence, the Islands Commission would like to recommend that the possibility of applying longer maximum contract durations, of up to 12 years, be accepted by the Commission, if it can be demonstrated that shorter maximum durations are a hindrance to efficient tendering, considering the characteristics of a route and of its economy.

iii) Simplified procedure

The EU islands would welcome effort by the European Commission to simplify the tendering procedure which is considered as both lengthy and expensive, especially for the smaller island routes.

In that respect, the possibility for small island routes (<300,000 pax/y) to apply a simplified procedure with simple calls for expression of interest should be reconsidered:

- to take into account the implications of seasonality when the yearly traffic figures are distorted by the high volume of passengers during a relatively short tourist season, whereas traffic remains relatively low during the rest of the year,
- to avoid duplication of counting when an island is a transit island to other islands, and traffic figures are accumulated on that island.

One solution could be to increase the 300,000 pax/y threshold. Another one would be to accept as complementary criteria the level of permanent population of an island, so as to enable the smaller islands to apply this simplified procedure.

iv) Public service on an international route

Most of the European islands are, by nature, border regions, and would benefit greatly from the development of regular services to other member states or to third countries (the latter point being of special importance in the case of the outermost regions). However, the economic viability of such services is often uncertain, or at least a long-term affair, which raises the need for the imposition of PSO or the conclusion of PSC.

This point has, to a certain extent, been taken on board by EU maritime legislation, which has (in the Commission Communication C(2004)43, article 9) accepted that PSO or PSC would be acceptable on an international transport service if there was an “imperative need”. However, the term “imperative need” has not been clearly defined so far.

Considering that the EU is presently endeavouring to develop the Motorways of the Sea, and that one of the goals of the MoS is “to improve access to peripheral and island regions and states”, it seems logical that the possibility to apply either a PSO or a PSC on an international service serving an island be broadened.

This could be achieved:

- either by deleting the expression “imperative need”;
- or by defining a service answering an “imperative need” as one which would:
 - a) allow an island to take advantage of its geographic proximity to another member state or third country;
 - b) contribute towards integrating an island or archipelago into the Motorways of the Sea;
 - c) help to meet the specific needs of the outermost regions.

v) EU financial support for international routes servicing islands

Decision No 884/2004/EC of 29 April 2004 amending Decision No 1692/96/CE on the Community guidelines for the development of the trans-European transport network, provides in its Article 5, the possibility for Europe to finance projects of common interest for the trans-European motorways of the sea network. This support is provided through temporary start-up aids, whose duration is limited to two years.

This mechanism should be broadened to provide temporary support for member states wishing to implement PSOs/PSCs on an international service serving an island.

This could be achieved by amending the aforesaid legislation through the following provision:

- [the EU] may also provide financial aid to a member state which, under the terms of Council Regulation (EEC) No 3577/92 on maritime cabotage, has concluded public service contracts or imposed public services obligations on an international route serving one or more of its islands, on condition that the aim of such obligations is to include the islands concerned in a broader network of motorways of the sea. This aid will be granted for a maximum of (X) years with a ceiling of (X)%."

The framework of the Motorways of the Sea legislation should also be extended to cover the situation of the outermost regions.

vi) Use of structural funds

The possibility to use structural funds for the purpose of purchasing vessels servicing islands has sometimes been accepted, sometimes rejected, depending of the programming period.

The main objection regarding the use of structural funds seems to be the risk of distorting competition, should a mobile infrastructure ever be used on a different route, and provide unfair support for an operator.

However, it may be argued such risks are non-existent if the ownership of the vessel remains in public hands, either by dissociating the vessel ownership from the provision of service (which would be open to tendering), or because the service is run by the public authority itself as a concession, under the terms of the ANAV Ruling.

Under such terms, the possibility to use structural funds to purchase vessels so as to provide lifeline services to islands should be explicitly allowed in the framework of the next programming period.

vii) Need for further studies on island cabotage

In spite of their best efforts to share information, the European islands consider that there is a dearth of comparative data on the provision of cabotage services to islands.

This makes it very difficult for public authorities to assess the terms proposed by operators, be it in terms of fares or in terms of subsidy, and to appreciate if they benefit for a reasonable deal considering the state of the market.

It would be very much appreciated if the European Commission could:

- undertake a comparative study on the provision of island cabotage services, whose purpose would be to provide some benchmarking on the average cost of running services according to a typology of situations**
- set up a database providing updated information on the existing PSO and PSC in force in the various EU islands, and providing basic information on the level of public subsidy, on the level of fares, as well as on the characteristics of the route.**