

The person of the Grensmakelaar

The experience of already existing structures at national level : the person of the *Grensmakelaar (NL)* (*Ombudsman on CBC*)

Auke VAN DER GOOT,
Dutch Ministry of the Interior and Kingdom Relations

Regional development through innovation in multilevel organized cross-border cooperation

Budapest, 9-10 December 2010



History of CBC in the Netherlands

1950s – between Germany and the Netherlands : CBC at local level

EUREGIO – since 1958

No legal instruments were available

Just a bottom-up approach by local authorities

At the moment there are 7 euroregions alongside the Dutch-German and Dutch-Belgian borders.



Do local authorities have the right to set up CBC structures?

1970s within the Council of Europe the debate started : local authorities should have this right. There should be a European legal instrument.

1980 European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (Madrid Outline Convention or MOC)



MOC – 1980 : not yet a right for LRAs

The Convention is intended to **encourage** and **facilitate** the conclusion of cross-border agreements between local and regional authorities within the scope of their respective powers. Such agreements **may cover** regional development, environmental protection, the improvement of public services, etc., and may include the setting up of transfrontier associations or consortia of local authorities.

Under the Convention, Parties undertake to seek ways of **eliminating obstacles** to transfrontier co-operation and to grant to authorities engaging in international co-operation the facilities they would enjoy in a purely national context.



1985 Eur. Charter of Local Self-Government

Article 10 – Local authorities' right to associate

- 1 (...)
- 2 **The entitlement of local authorities to belong to an association for the protection and promotion of their common interests and to belong to an international association of local authorities shall be recognised in each State.**
- 3 **Local authorities shall be entitled, under such conditions as may be provided for by the law, to co-operate with their counterparts in other States.**



Can all CBC problems be solved at local and /or regional level ?

The simple is: NO

EGTC Regulation 2006/1082 is innovative:

- it opens the way for CBC in **multilevel government structures** (infrastructure measures)
- it is an optional legal instrument

CoE Protocol No 3 to the MOC **offers similar options** that could be interesting for non-EU member states, incl. Ukraine



EGTC Regulation is innovative and optional

EGTC Regulation, Preamble no. 5:

The Council of Europe *acquis* provides different opportunities and frameworks within which regional and local authorities can cooperate across borders. This instrument (i.e. EGTC regulation) is **not intended to circumvent those frameworks** or provide a set of specific common rules which would uniformly govern all such arrangements throughout the Community.



Multilevel governance approach in CBC

In 2008, the Dutch Ministers of the Interior and for European Affairs agreed on a common **Agenda for border regions**

aimed at **removing obstacles** in CBC in policy areas such as:

education, health care and care of old people, cross-border workers, security and policing, water management, spatial planning and transport



The person of the *Grensmakelaar*

A **dedicated person** to solve cross-border obstacles at Dutch borders (sort of Ombudsman?)

Function has been created in May 2009

Task Force at the Ministry of the Interior (also supported by MFA)



EU integration and internal borders

Physical borders disappeared:

Schengen, free movement, no longer any customs offices at the internal borders

A **variety of obstacles** remained, mainly due to the variance among domestic legislation at both sides of the border (hospitals e.g., spatial planning and other forms of planning policies)



Political sensibility in capitals

Obstacles in CBC are **experienced** in border regions, not often in capitals

Therefore, obstacles should

- be **identified** bottom-up in border regions, and
- be brought to the **attention of central government as a matter of priority with the aim to be removed.**

The person of the *Grensmakelaar* should play a role, as was underlined by the main advisory body on local authorities, the Council for Public Administration (**CPA**)



CPA: Grensmakelaar should act as link and troubleshooter (1)

- GM should identify **counterparts across the border** and create possible links with them
- GM should have regular contacts with border regions and be a sort of catalyst for relevant policy areas
- GM should act as a **troubleshooter** for ministries in those cases where there are problems in CBC (GM's task should be: how can we get rid of one or more obstacles?)



***CPA: Grensmakelaar* should act as link and troubleshooter (2)**

- GM should also **inform ministers** about his activities
- GM should **involve ministers** in finding solutions for CBC problems
- GM should have **contacts with MPs**
- GM should have a **secretariat and a Task Force**



How does GM work in practice? (1)

With **Germany**: excellent – aim is removing obstacles

Regular high level contacts

Regular contacts at civil servant level

With **Belgium**: start was a bit slower.

For that reason: GM should continue under the new government



How does GM work in practice? (2)

- Solving one CBC problem often leads to identifying a new problem
- Work on CBC problems is **ongoing business and ongoing concern**



Role of the task force

- Every **3 weeks** our ministry organises a meeting with representatives from the border regions
- **State of the art**: is there progress or are there signals of slowing down?
- Which is the **competent authority?**
(decentralisation)



Results of the Task Force so far

- cross-border water management +
- public transport (old railway) – more difficult (Mr. Gabbe)
- CBC between hospitals – more difficult
- unemployed people – ministries of Finance (BE&NL)
- agree on a procedure to decide when (or that) an obstacle has been resolved
- agree on a procedure how to identify new obstacles for the Common Agenda (role for border regions)



New perspectives for / future of GM

- Change in government – what does it mean?

- Main obstacle: Diverging legislation

Grenslanctoets (*cross-border test on the effects of new legislation in border regions*)

EU directives

CoE project (Appendix to Protocol No 3 MOC)



Contacts

Auke van der Goot

**Ministry of the Interior and Kingdom Relations in
the Netherlands**

auke.goot@minbzk.nl

Thank you for your attention

