Draft guidelines for citizens and civil society participation in **EU transport policies and projects**

STUDY

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Study

Contents

1   Introduction

This study is made in the context of the work of the EESC Permanent Study Group – Implementation of the White Paper on transport (the PSG). It is intended to be of assistance in bringing forward the work of the PSG toward practical implementation of the project of facilitating implementation of the 2011 White Paper on transport (the Roadmap)[1].

To that end, it essentially embraces a suggested set of guidelines for a participative dialogue, as well as a plan for implementing such a dialogue.

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[1] Roadmap to a Single European Transport Area –æ towards a competitive and resource efficient transport system COM(2011)144

2   Aims and background

2.1   Background

The Roadmap sets ten goals for a competitive and resource efficient transport system that will deliver a 60 % reduction of greenhouse gas (GHG) emissions. Set on a time horizon ranging from 2020 to 2050 the goals endeavour to advance new fuels and propulsion systems, optimise the performance of multimodal logistic chains and increase the efficiency of transport and of infrastructure use with information systems and market – based initiatives. An implementation strategy set out in the Roadmap comprises 40 initiatives to be taken on the 2020 horizon toward implementing the goals of the roadmap. The measures cover all modes, infrastructure, employment and working conditions, innovation, including alternative propulsion, financing and pricing. They include legislative measures and measures that encourage behavioural change.

In a letter dated 11 January 2012 the European Commission requested the views of the EESC on how civil society could be engaged to buy into the objectives of the Roadmap. Specifically brought up was the need to reconcile national and European interests regarding important infrastructure projects in the TEN T.

In an Opinion[2], the EESC decided to take up the request and in April 2013 a permanent study group "Implementing the White Paper on Transport" (PSG) was set up.

To support its work the PSG commissioned a study on how more cooperative decision – making processes might be put in place for the work of the EESC in general and the implementation of the Roadmap in particular. The study was finalised in April 2014 and intended for policy makers and civil society representatives, both within and beyond the EESC[3]. Despite being focused on transport policy, the lessons of the study are applicable to other fields.

In order to enable a more practical approach and identify concrete ways to engage with the civil society on transport issues, the PSG agreed that a specific set of guidelines need to be drafted. Such guidelines were considered as necessary to implement concrete cases of participatory processes in transport projects. The present study (the Study) has been commissioned to define such guidelines.

2.2   Aims of the Study

The Study is to address two main goals.

1.   Prepare draft guidelines for citizens and civil society participation in EU transport policies and projects.

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[2] Transport White Paper: getting civil society on board (exploratory opinion) CESE 1598/2012.
[3] EESC/COMM/09/2013 Putting in place a more cooperative decision – making process for European Union transport policies and projects (the IFOK Study)

The guidelines for citizens and civil society participation in transport policies and projects will serve as concrete guidance on how to engage citizens and civil society organisations on transport policies and projects. They will primarily target the European Commission, authorities at different levels of governance, as well as civil society organisations playing a significant role in transport related decision – making processes.

The guidelines should be more than a set of rules and recommendations on civil society and citizens' participation in transport policy and projects. They should also constitute a call for decision makers to embrace participatory decision making processes and take advantage of the opportunities that such an approach may present.

2. To devise a project plan for the preparation and promotion of the final version of the guidelines.

The project plan will outline how the draft guidelines should be further developed into a final version, by engaging with key stakeholders and running a pilot project. It will also propose ways to ensure that the guidelines are made widely known across the users' community.

The overarching goal of the guidelines shall be to increase the substantive involvement of civil society and European citizens in the design, development and implementation of European transport policies and projects. As such the guidelines are also to seek to:

- Raise awareness of the need for early and substantive civic engagement in formal and informal planning procedures for transport policies and projects;
- Enable the relevant institutions and organisations to involve citizens and civil society in a meaningful way by:
  - Offering an insight into the practical processes and tools for civil society and citizen participation, how these tools can be applied and how they interlink;
  - Sensitising for potential pitfalls and challenges which might be faced by those implementing a more participatory approach in European transport policy and projects;
  - Offering hints and insights from successful case studies and best practices both in the field of transport policy and projects and, where possible, from other policy areas which offer valuable learning

2.3 Methodology of the Study

1 The draft Guidelines

The draft Guidelines are largely based on the following elements.

- The findings of the IFOK study and the recommendations made therein.
- A number of existing guidelines for participatory decision making procedures
- Presentations made before the PSG of a number of participatory projects

Where relevant a description of guidelines and participatory projects will be made, with an assessment of them with regard to those aspects that are relevant for the guidelines.

These are as follows.

- Elements that create good conditions for a participatory dialogue that is experienced as meaningful both by decision makers and other participants.
- Elements that attract participants and make them see participation as worthwhile.
- Benefits for decision makers
- Benefits for other participants
- Elements that favour early participation.
- Organisation of the dialogue.

These elements will be included in a compendium of best practices, which will therefore include a short description of the most pertinent case studies.

The operative part of the guidelines will therefore contain a number of references to case studies and relevant elements set out above.

2   The project plan

The plan will be drafted to accommodate two kinds of projects. One refers to a policy making project of the European Commission, the other one relates to one or more infrastructure projects or other issues pertaining to the implementation of the TEN T Guidelines/CEF Regulation.

Contacts have been made with the European Commission. Representatives of the PSG have met with the assistant of the coordinator for the TEN T Core Network Corridor Mr Pat Cox and his assistant Mr Leo Huberts. Representatives of the EESC internet dialogue platform "My Europe Tomorrow" have appeared before the PSG to give an account for the activities of the platform.

The above elements have provided a sufficient basis to assess the activities required to finalise guidelines and provide an outline of a pilot project.

3 Draft Guidelines

3.1 Introduction and background

This draft is elaborated within the framework of the EESC Permanent Study Group – Implementation of the White Paper on Transport (PSG). The PSG was set up following the EESC Opinion "Transport White Paper: getting civil society on board", adopted in response to a request by the European Commission for the views of the EESC how civil society could be engaged to buy into the objectives of the Roadmap.

The Opinion requested the EESC to set up an implement a framework for a participative dialogue centred on the implementation of the White Paper and largely based on internet communication. The dialogue should involve civil society, the European Commission and other relevant players.

The PSG was tasked to develop Guidelines that can serve as concrete guidance on how to engage citizens and civil society on transport policies and projects. The guidelines shall primarily target the European Commission, authorities at different levels of government and civil society organisations who carry a role in in the implementation of preparatory processes.

The guidelines shall serve as a framework for a two way participatory dialogue with the aim to facilitate acceptance by the civil society and the general public of the aims of the Roadmap or the implementation of infrastructure projects.

The aim is to conceive a set of draft Guidelines that are as short as possible, clear, useful as a framework to operate the dialogue and that will inspire confidence in the added value of the dialogue.

The character of the questions to be addressed means that the Guidelines will only in part be a text with a regulatory character. They will at least as much be a policy and administrative framework.

One of the most important aims of the guidelines is to make the dialogue accessible to the constituency concerned and make participation seem worthwhile.

In that context a number of questions appear that must be answered in order to develop an operational set of guidelines and to implement the dialogue.

3.2 Why a meaningful dialogue with civil society is needed

- **An open and transparent exchange of views between civil society, the Commission and, where relevant, project managers, including relevant authorities at different levels can improve acceptance and understanding in civil society and provide useful feedback for policy makers and those responsible for project implementation. The exchange should start at the earliest stage possible.**

A fairly large number of consultation procedures take place at EU level on the initiative of the European Commission. They will generally occur at a very early stage on the basis of a consultation

paper that reflects the ideas or considerations behind a planned initiative.   There are also various openings for collecting reactions from the public on EU policies, such as for instance "Your Voice in Europe".

Most consultation procedures to – day are one way in the sense that no immediate feedback is provided on input and that, hence, there is no continuous dialogue. While consultation contributions are usually made available on the net, there is no immediate reaction. Those who submitted views or comments will usually know what happened only when they see the final product. Therefore, one cannot really consider that a participative dialogue occurs.

The Lisbon Treaty, or The Treaty on the European Union, contains provisions on participatory democracy in Article 11(1) through (3). There are three options.

Under Article 11 (1) the EU institutions should give EU citizens the opportunity to express and exchange their views on EU action in all fields.

Article 11 (2) prescribes an open, transparent and regular dialogue with representative organisations and civil society.

Article 11 (3) is considered as the most far reaching. It provides for extensive hearings with those concerned in order to ensure the coherence and transparency of EU action.

These provisions have been considered as an expression of direct democracy. They provide, in different settings, for an obligation on the part of the institutions to provide opportunities for the general public, interest groups or those concerned by a planned action to express their views at an early date, with an obligation for the institutions to provide adequate information and with an obligation to make the input accessible to participants and to the public.

Dialogues and consultations provided for in Article 11 do not oblige the institutions to take account of the views expressed or to provide any kind of feedback to participants. The do not in any way bind decision makers.[4]

The way the system works has been criticized for instance by the European Court of Auditors who have stated that the dialogue or consultation input is not adequately used for the impact assessments which furthermore are not used to properly assess the usefulness or adequacy of a planned policy initiative.[5]

Lack of clarity about the possibilities and limitations of consultation or dialogue proceedings cause frustration and risk making citizens see the debate as an alibi, at best as a means to inform the public, at worst aiming at legitimising already taken decisions or decided projects than can be only marginally changed.

This situation also partly explains the comparatively low participation, in spite of often huge information efforts, also in internet dialogues.

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[4] Lenz – Borchardt; EU – Verträge, Kommentar nach dem Vertrag von Lissabon, Bundesanzieger Verlag, 2010, 5:e aufl, page 110 -111.
[5] European Court of Auditors, Special Report 3/2010 Impact Assessments in the EU institutions – do they support decision – making? page 7 (i) and pages 26, 29 – 30.

A further explanation of low participation is that too vast or too complex issues often do not attract the general public, but only a small number of specialists, who feel capable of participating. This has occurred with several dialogue procedures at national level concerning infrastructure projects organised by the French "Commission Nationale des Debats Publics (CNDP), in spite of the high quality of these debates, including an obligation on the debate organisers to react and inform participants about the follow up.

This kind of criticism leads to questioning, not the relevance or usefulness of open consultations, but the capacity of the different actors in the public debate to provide sufficient guarantees of an open and objectively conducted debate, that is also efficient.[6]

Still, it appears that there is a great interest on the part of the public to participate in a dialogue that is experienced as meaningful and that inspires confidence that input is given attention and that a follow up is provided.[7]

Numerous examples show that the absence of a dialogue or a consultation or dialogue process that is experienced as inadequate, biased or otherwise insufficient has provoked numerous problems with stakeholder and the general public.

Good examples of problems caused by the lack or inadequacy of dialogue are provided by the Stuttgart 21 project in Germany or the project Notre Dame des Landes airport project in France.[8]

The very proliferation of consultations regarding infrastructure projects of various sizes and of consultation procedures both at EU level and national level regarding planned policy and/or legislative initiatives clearly answer to a need on the part of stakeholders and the general public to be heard also between elections and on specific subjects. It might be said that the delegation of power granted through elections is no longer sufficient, but a need for a kind of continuous democracy appears that requests consultation or dialogue processes regarding planned initiatives also between elections.[9]

Failure to do this or doing it in an inadequate way has frequently caused implementation difficulties.

The dialogue, in other words, must be a two way dialogue and there must be confidence in the fairness of the dialogue and that it is managed in an unbiased way.

A dialogue that fulfils those criteria will have a real chance of contributing to better decision making and of creating better understanding of the constraints or motives that are at the bottom of a proposed measure. Likewise, such a dialogue could create better understanding of the views of those concerned by a proposed legislative measure or an infrastructure project.

This would have favourable effects on the possibilities to reach consensus on conflictual issues.

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[6] Conseil d'Etat, Rapport public 2011 – Consulter autrement Participer effectivement – La documentetion francaise pages 71 -74.
[7] Evas/Liebert/Lord Multilayered representation in the European Union pages 245 -247 and Dominique Schnapper L'Esprit democatique des lois pages 137 -142
[8] Conseil d'Etat, Rapport public 2011,page 71, footnote 124 and page 217 at footnote 64.
[9] See the four cases quoted in IFOK study that embrace both general transport/energy policy issues (Mobility and fuels strategy of the German federal Government), infrastructure projects (Frankfurt Airport and the Fehmanrn Belt Fixed link (German side)) and organisation of public transport (Tarttu, Estonia).

At the same time at the end of the day it must be realised that concrete effects may be limited as a participatory dialogue concerning the preparation of a project will be separate from the decision making phase. This is the case regarding a Commission proposal where the decisions of the college of Commissioners will be separate from the dialogue, and not formally bound by its outcome.

Clearly the outcome of the deliberations in the Council of ministers or in the European Parliament will be even more dissociated from the dialogue outcome.

Still, it must be recalled that just as well as the continuous feedback during the dialogue, feedback to participants must be provided also with respect to the final result. This is an essential confidence building element. It is just as important to make clear what cannot be influenced through the dialogue.

- **The dialogue should also bring added value by bringing additional knowledge and broadening the knowledge base for decisions and improved understanding of the outcome.**

The input provided by the dialogue will improve the knowledge basis of decision making bodies (European Commission, project implementing bodies). This applies irrespective of whether the proposal is adjusted as a consequence of the dialogue or not.

Further with respect to such Commission proposals that are subject to impact assessments, the input provided during the dialogue may provide useful additional information

Availability of information and an open and constructive dialogue that provides adequate feedback to those participating should improve the understanding of the outcome. This does not necessarily mean acceptance, but it does mean that the outcome is seen as reasonable.

- **Creating confidence in the fairness and openness of the dialogue and of the dialogue as a means to influence the course of events on the basis of the input of dialogue participants. This includes transparency about the limits of a dialogue**

To make participation in a dialogue to be seen as meaningful it is important that the dialogue inspires confidence. This requires compliance with the aims set out in the above bullets.

It is important that the dialogue should be seen as simple and robust. Emphasis should be on an early and open discussion. Formalities should be reduced to the minimum necessary to make the dialogue work.

A further important factor that will create confidence is belief that the dialogue is pursued in a fair manner and that it is led by and objective body that has no vested interest in the outcome of a proposal or in the implementation of a project.

As will be explained further on, the EESC fulfils the requirements that can be made on an objective and independent manager of the dialogue.

Confidence in the dialogue could give the following effects.

- Improving the chances of acceptance both of a Commission proposal and the final result of the EU decision making process.

- Improving the legitimacy of a decision.
- Construct a consensus around the proposal.

The global situation will be very similar with respect to both Commission proposals or policy initiatives and TEN T projects. The essential difference would be that regarding TEN T projects the decision making power would lie with national authorities. There will also be a number of other specificities to consider in a TEN T project context, that will be reverted to further on.

To achieve the results outlined above a number of core principles must be respected and clear directions must be given regarding the management of the dialogue.

3.3   Core principles of a dialogue with public society

Transparency A dialogue should be transparent. Essentially, this includes two things.

- The scope of the dialogue and the possibilities of the dialogue to influence decisions must be made clear at the outset.
- A guarantee that information is accessible. Documents, including background documents and drafts and pertinent facts should be made accessible to dialogue participants at the beginning of the dialogue. The information available should ideally, at the outset, be the same as that on which the draft presented for the dialogue by the Commission or the project to be implemented by the project manager was based. It should at least be sufficient to make it possible for those concerned, including the general public, to participate in the debate. The information should be accessible, trustworthy and indicate the source.

The information must be understandable also for non – specialists.

> Clearly the obligation to provide information is limited by interests of personal integrity, national security and the need to protect business secrets.

Documents and other information should be updated continuously as the dialogue develops.

Responsibility for providing this information will usually be the Commission, as regards various Commission initiatives, such as planned communications or legislative proposals.

Regarding TEN T projects, the responsibility for providing information will lie with the subject (public authority or other) that is responsible for the project. As regards TEN T projects, wherever a private law subject is responsible for the project, this will be following an authorisation by the Member State concerned. That state should therefore also be ultimately responsible for the action of the project manager in such a context.

With respect to European Commission initiatives, there is l legal basis both with respect to access to information and the participatory dialogue in Article 11 TEU and, regarding access to documents, in Article 15 TFEU.

Regarding TEN T projects regarding Core Network Corridors Art 45-6 of the TEN T Guidelines Regulation[10] empowers the Coordinator to consult with a wide range of stakeholders and the CEF Regulation[11] , in particular Articles 15 and18 entitles the Commission to stipulate condition for financial support.

Openness The dialogue must be open, two way and continuous. This means that all pertinent arguments or issues may be raised in the dialogue, including facts. Issues raised in the dialogue should always receive an answer. Participants in the dialogue should all be dealt with on an equal footing.

The interventions of all participants should be received, scrutinized and, as appropriate, be transmitted to all participants.

There should be a minimum quality requirement on contributions which should relate to the subject of the dialogue and which should be argued.

Openness also means that the limits of the possibilities afforded by the dialogue are made clear. This includes explaining that the dialogue cannot take the place of decision making or legislative bodies. The outcome of the dialogue may however influence the content of a proposal or of a project.

A guarantee that the entity that organises the dialogue is impartial and loyal. This is a common sense rule based on the idea that the subject or entity responsible for an initiative or a project should not be the organiser or the manager of the dialogue. To create confidence in the dialogue it is necessary to have it managed by an instance that is capable and authorised to manage or maintain order in the dialogue. There is also a kind of pedagogic element in this function.

The dialogue management function is particularly important in an interactive dialogue, with exchanges between the Commission/the entity responsible for a TEN T project, normally the Member State concerned and other participants or – possibly – between those concerned by an initiative or a project.

Grant reasonable time for those concerned to submit their views. Again, a common sense rule. Still, it is important to establish confidence in the fairness of the dialogue. Time limits for submitting views should be known from the start of the dialogue or when a specific answer or explanation is requested.

Time limits may be short if required. The reason why should then be given. Lateness in starting a dialogue process is not an adequate excuse for short time limits.

Accountability This means that there must be a feedback on issues raised, and a reasoned explanation as to how and why arguments raised were or were not accepted.

Information must also be given as to the final outcome, that is, the way the proposal was finally presented and about the final result of the legislative proposal.

The same principle applies regarding TEN T projects.

Contributions to a dialogue should be kept for a reasonable period after the end of the dialogue.

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[10] Regulation (EU)1315/2013 on Union guidelines for the development of the Trans European Network (the TEN T Guidelines regulation)
[11] Regulation (EU) 1316/2013 in the Connecting Europe Facility (the CEF Regulation)

Respect for the above principles should create confidence in the fairness and openness of the dialogue and motivate participation in the dialogue by all stakeholders.

Consideration of the constituency This could be a difficult and even delicate procedure. Where the form of the dialogue necessitates a limitation of the number of participants, a good balance of the various interests implicated must be ensured.

On the other hand, when a more open form of dialogue is chosen, for instance through the internet, it may be advisable to admit all who can show a reasonably well founded interest in the subject and who are ready to abide by the rules of the dialogue.

Confidence building through respect for the above principles and by demonstrating that the dialogue is capable of influencing events and that participation is meaningful and can bring added value to both authorities and civil society by improving quality and legitimacy of decisions.

3.4   Key actors and policy framework

3.4.1   The policy framework

Dialogues are linked to implementation of the EU transport policy framework. The formal and institutional context will however be different between two main situations.

a)   Dialogue concerning planned political or legislative initiatives by the Commission

The Commission has an almost exclusive monopoly to make policy and legislative proposals. Proposals are usually, at a pretty early stage, preceded by consultation. Any significant legal proposal must also be accompanied by an impact assessment.

A planned Commission proposal could be preceded by a participative dialogue to improve the planned proposal in the light of the input provided.

Preparation of the factual basis for a dialogue and ensuring the input necessary for its pursuance would in that case be for the Commission, as will be further described below.

A Commission policy or legislative initiative will almost always have EU – wide relevance. This means that the constituency concerned will also be EU wide and potentially numerous. This is a strong argument in favour of using an internet based dialogue for dialogues regarding such initiatives. An event based dialogue would risk being too restrictive owing to space constraints and would mean a higher risk that the views expressed would be those of well-known political fractions or interest groups that will have no problem in making their views known to the Commission and the EU legislators. This is a risk that cannot be excluded anyway, but it can possibly be reduced by widening and facilitating access to the dialogue.[12]

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[12] Dominique Schnapper: "L'esprit democtratique des lois, Galliamrd 2014 p 140, Conseil d'Etat, Rapport public 2011 p 73

As for timing, a dialogue should ideally take place at a stage when the Commission services have assembled enough facts to provide a good basis for a dialogue. This means that the dialogue should not take place when the first ideas appear or at the earliest stage of preparation of an initiative when facts are still being assembled, including through classical consultations and hearings.

It seems reasonable to assume that the best timing for a dialogue would be when a good factual basis is in place and options are being considered. This may include the fundamental option of whether to take an initiative or not, which normally should be a political appreciation that could be influenced by a dialogue.

In any case, it is of fundamental importance that the options that are open should be made as clear as possible at the outset of the dialogue, together with the complete factual basis, in a readable form.

The dialogue, as such, will be implemented in the same way, whatever the subject. There may be a di8fference, however, between a dialogue that concerns a purely political initiative, for instance an action plan, ad a legislative proposal, since a dialogue on a legislative proposal is likely to go much more into detail and address for instance drafting points.

The added value of a dialogue should be to improve legitimacy and acceptance of the proposal and to provide an early occasion to address and resolve problems which would otherwise have to be dealt with in the course of the decision making procedure in the European Parliament or in the Council or that would have to be dealt with when implementing the decision.

Regarding division of different tasks concerning the dialogue and financing, reference is made to Sections 3.4.2 and 3.5 of this study.

b)   TEN T projects

What should normally be that subject of a dialogue is a TEN T project along one of the Core Network Corridors. The projects to be implemented will appear in the Work Plan for the corridor, agreed by the Member States. Projects may also appear on the list at Annex I to the CEF Regulation, but the document that sets the framework for the implementation.

Each of the nine TEN T Core Network Corridors has a Coordinator with a number of coordination and facilitating functions. The Coordinator is responsible for putting together the proposal for the corridor work plan. The coordinator also leads the activities of the Corridor Forum with is an advisory and consultative body with the Member States, other entities responsible for infrastructure and users. The Forum is a consultative body and a forum for exchange of views.

The coordinator monitors the implementation of the work plan and produces a yearly report to the European parliament, the Council, the Commission and the Member States concerned.

With the Member States concerned the coordinator may carry out consultations with regional and local authorities, transport operators, transport users and civil society in relation to the work plan and its implementation.

However, the decision making power lies with the Member States who adopt the work plan and to whose planning legislation each project is subject. Normally projects will also be built by Member States. For certain projects Member States delegate the responsibility for putting together and implementing a project to a private law entity.

With the approval of the Member States concerned the Commission can adopt implementing acts on the basis of an approved work plan with respect to cross border and horizontal dimensions of the work plan.

There also seems to be plans to conclude corridor agreements when the work plan has been approved.

Therefore, the entity that should ensure the practical and substantive work generated by the dialogue will normally be the Member State or, in the case of a cross border project, the Member States responsible for the project. The Member States will normally act through an authority responsible for infrastructure. Regarding a project for which the Member states concerned has delegated responsibility to a private entity, this task would fall on that entity.

The corridor coordinator should be responsible for the dialogue, with the Member State or states concerned, in accordance with the TEN T Guidelines Regulation.

Dialogues concerning TEN T projects on Core Network Corridors will probably in many ways be very different from dialogues on a Commission proposal.

The following points should be considered in this context.

1) The possibility to influence actions will often be limited to amending a project and its implementation while the project as such often cannot be cancelled.

2) The geographical scope of the dialogue may vary a lot. A dialogue could for instance concern the global planning and/or the entire work plan of the Corridor. While the basic work plan proposals are now ready and submitted to the Member States concerned for their approval, the foreseen revisions of the work plans could still be the subject of a dialogue, as well as the list of projects at Annex I Part I to the CEF Regulation. At the other end of the scale, dialogue could be organised for specific projects or, where appropriate, batches of projects with a common denominator. Projects may be national or cross – border.

3) It is the Member State on whose territory a TEN T project is situated that is responsible for the implementation of the project. The role of the Corridor Coordinators and the Corridor Fora will be to facilitate implementation and, regarding the Corridor Forum, to provide an arena for debate and exchange of information. Decisions will be taken by the Member States. The Member States will however be bound by the TENT Guidelines and the CEF Regulations, which inter alia oblige them to implement the projects relating to the Core Network Corridors by 2030, at the latest. The Member States nevertheless remain the masters of the work plan. This is so even when the work plan has been the subject of one or more Commission implementing Acts which can be adopted regarding the cross border or the horizontal dimensions of the work plan, since the adoption of such an Act or its adaptation is subject to the approval of the Member States concerned.

4) Therefore Member States are key to the dialogue on specific TEN T projects and, as already pointed out above, it is the Member State where the project is situated that have to request a dialogue, directly or, as suggested in this study, through the Commission and the Corridor Coordinator. Regarding cross – border projects, all the Member States partners to the project should agree.

Moreover, it is for the Member States to decide whether projects should be modified as a consequence of a dialogue. They are also the only ones in possession of the complete factual information needed to start a dialogue and the only ones capable of dealing adequately with the questions raised during a dialogue with respect to specific projects.

The role of the Coordinator means that he or she can raise the idea of a dialogue and exercise his or her influence to make Member States accept the idea of a dialogue of a dialogue, but the request must come from the Member States, for the dialogue to become meaningful. Only the active engagement of Member Stated will make a meaningful dialogue possible.

During a project specific dialogue the coordinator has an important role to play as facilitator of the dialogue, helping to choose the best form of dialogue assist in putting in place the formal framework around the dialogue, in cooperation with the Member State (s) concerned, the EESC and the Commission. The very favourable attitude of Mr Pat Cox, Coordinator of the Scandinavian – Mediterranean Core Network Corridor may be very helpful in getting one or more dialogue pilot projects started.

Finally the Coordinator would have an important role to play in seeing to it that the resource commitment by Member States needed to make the dialogue work is included in a Corridor Agreement.

5) Acceptance of the dialogue by Member States is also necessary to ensure financing, as mentioned below in Section 3.5. The budget must be agreed beforehand. Possibly the financial undertaking and the undertaking to make available the resources needed to handle the dialogue should be included in a Corridor Agreement.

6) The added value of TEN T related dialogues concerning specific projects would be better acceptance of projects and improved legitimacy. There could also be a reduced risk of long and costly procedures concerning planning decisions. Regarding cross border projects, dialogues could also contribute to improved cross border cooperation around the project.

7) The form of a project related TEN T dialogue must be decided on a case by case basis. In general, it may be assumed that the optimal and most resource effective dialogue form would be the internet dialogue. Addition of one or more events may be considered if it is believed that they will provide added value in the form of for instance better knowledge of the project or improved quality of the contributions to the dialogue. Also when events are organised, it is probably wise to provide an internet platform with both factual information and a possibility to intervene in the dialogue.

8) Clearly, in every open dialogue concerning infrastructure projects there will be a number of interventions based on local interest guided reactions, NIMBY sentiment and various partisan tendencies. Such interventions may give rise to fairly high profile exchanges. At worst

contrasting reactions in such a contest risk diminishing the credibility of the debate. The best way to deal with this kind of situation would seem to preserve the credibility of the objectivity and independence of the management of the dialogue.[13]

9)   The constituency of an internet dialogue will appear spontaneously. Access should basically be open, provided a reasonable and legitimate interest in the project is demonstrated. Still an information/publicity effort could be useful to raise consciousness of the debate. Likewise, dedicated information to for instance organised civil society might be considered.

Regarding events space and logistic constraints may impose restrictions on attendance, for instance in the form of a selective approach.

10)   The time required for a dialogue must be decided on a case by case basis, taking into account the following elements.

- The time needed to compile and structure factual information.
- Time needed to inform, about the dialogue.
- Time needed for the dialogue. For this phase the French CNDP foresees four months, regarding French national infrastructure projects.[14]

There may also be openings for dialogues in two other contexts relating to TEN T Core Network Corridors.

The first possibility is in the context of reviews of the work plans, which are to be prepared by the Coordinator for the approval of Member States concerned. In this context the dialogue could take place at the initiative of the coordinator and be part of the preparation of the proposal for a review, in the same way as the dialogue concerning a Commission proposal.

A fundamental prerequisite would be the availability of adequate resources for the Coordinator to be able to finance the dialogue and deal with the substantive aspects of the dialogue. The costs might for instance be borne jointly by the Member States that are included in the Corridor

The second possibility would be to use the dialogue as part of the Corridor Fora to make it possible to establish the dialogue with Corridor users to which the corridor Fora aspire. Since it appears that the great number of users might be a practical problem for the purpose of including them in the Corridor Forum, it is suggested that the internet dialogue form outlined in this study might be used to deal with input from them.

Also in this case the cost may be borne jointly by the Member States concerned.

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[13] Conseil d'Etat, Rapport public 2011 page 73, at footnote 127.
[14] www.debatpublic.fr   "Le deroulement d'un débat public", Section 1"Des modalités diverses "

3.4.2 Tasks of the actors

3.4.2.1 EESC

- The EESC could undertake two tasks in this context.

  The first task is to select the subjects for a dialogue, on proposal from the Commission or, regarding TEN T projects, on proposal by the Member State or States concerned together with the Corridor Coordinator. This is necessary to ensure that resources are available for an adequate management of the dialogue.

  The second task is to manage the dialogue in order to ensure that it is carried out in accordance with the core principles set out above and I accordance with the further developed guidelines.

  This will ensure that the dialogue is managed by an entity that is independent and seen as independent of the proposals planned or the envisaged projects.

  The intention is to help making the dialogue credible and seen as worthwhile to participate in.

- **Selection of subjects**

  Decide, basically on the basis of resource availability and in close contact with the Commission what initiatives or plans will be the subject(s) of a dialogue Both the EESC and the Commission could make suggestions. (In practice, most suggestions are likely to come from the Commission since it manages the work plan.)

  To make things simple and ensure that there is one interface also dialogues concerning initiatives from TEN T Corridor Coordinator and Member States concerning a TEN T Core Network corridor project could pass through the Commission services.

  In the alternative, the decision could be taken on the background of contacts with the corridor coordinator and the Member States concerned.

  Internally in the EESC this raises the question of who decides, also bearing in mind that urgent matters may arise that would require a rapid decision on whether to commit or not.

  The decision to undertake management of a dialogue would have to be taken at a fairly high level in the organisation, probably by its president.

  Preparation of that decision would be a first step of the management of the dialogue. According to the 2012 EESC Opinion the dialogue should be managed by a steering committee from the TEN Section with the support of the TEN Secretariat and in continuous cooperation with for instance the Commission. The most expedient solution would seem to be to delegate the management task to a Permanent Study Group (PSG) with a permanent delegation to its chair to decide on urgencies.

To handle this task the PSG would need the support of the secretariat to assess the availability of staff and budgetary resources.

This suggestion is made on the assumption that there is an agreement with the Commission or the Member State or Member States concerned, as regards a TEN T project to carry the cost for dealing with the substantive part of the dialogue and bearing the costs of events. It is also made on the assumption that the cost for running an internet dialogue is covered either through an agreement with the Commission or the member States concerned, in the case of a TEN T project, or by the EESC budget.

- **Management of the dialogue.**

.   The EESC will be responsible for the overall management of the dialogue. This covers the items set out below.

The text below addresses a dialogue organised with the Commission. The same procedure would apply regarding a dialogue concerning a TEN T project, although there agreements would have to be reached with the Coordinator and the Member States concerned.

a) Decide, after agreeing with the Commission, on the form of the dialogue. Basically, three varieties are open. They are; an internet dialogue, one or more events or a mix of the two. Agreement with the Commission is essential because the form chosen will have an influence on the character of the dialogue and on the Commission resources required. Ideally a standard cost should be available for the EESC involvement in each type of dialogue. (The issue of cost – sharing regarding the management of an internet dialogue or the organisation of events could be raised with the Commission.)

b) Decide, in agreement with the Commission, on the constituency to be primarily involved in the dialogue. This will vary depending on the scope of the subject of the dialogue and with its character. For instance a dialogue concerning the configuration of an infrastructure project will not be the same as a planned initiative on urban mobility or market access in road transport. This issue is also linked to the form of dialogue. There may for instance be problems involved in reserving access to an internet dialogue.

c) Be responsible for and manage the dialogue. This includes implementation of the dialogue in the form and with the scope decided on in accordance with the principles agreed with the Commission. While the principles remain the same, the actual handling of the dialogue will be different depending on if it is implemented through the internet or events. Guidelines for the management of a dialogue are to be set out in a document to be agreed with the Commission.

d) Responsible for a) through c) above should be the PWG and with delegation to its chair for urgent decisions with the support of the secretariat.

e) For the actual implementation of the dialogue different organisational set – ups will be required depending on the form selected for the dialogue. Secretariat support will generally be needed.

For an event based dialogue the workload may be considerable regarding the organisation, unless the choice is made to outsource organisation and management of events.

In any case it will be the responsibility of EESC to ensure proper organisation of events and follow up in the form of feedback to participants on the impact of the dialogue.

For an internet based dialogue the Secretariat workload could be less significant, since it may be assumed that the handling of the dialogue as such could be done by those in charge of the EESC internet platform, It is assumed that a set of guidelines or a code of conduct for the management of the dialogue flow as such already exists. It would have to be checked if additions to those guidelines for the purpose of the dialogue.

For all kinds of dialogue a general set of requirements should be set out. They should briefly set out the obligations of the Commission and the EESC as outlined above. They should also set out a number of basic standard requirements for the dialogue. This document would be the actual guidelines for the dialogue. There must be compliance between those Guidelines and the dedicated Guidelines for the internet dialogue.

3.4.2. 2 The Commission

- **Selection of subjects**

Suggest subjects for dialogue and agree with EESC on the selection of subjects

- **Management of dialogue**

Work with the EESC to reach agreement on the questions set out under Section 3.5,2, 1 third bullet a) through c) above regarding the management of the dialogue.

Handle the substantive content of the dialogue, whatever its form, as agreed with the EESC.

Make adequate resources available for its undertakings.

3.4.2.3 The Core Network Corridor Coordinators, Member States

- **Selection of subjects**

Suggest subjects for dialogue and agree with EESC on the selection of subjects

- **Management of dialogue**

Work with the EESC to reach agreement on the questions set out under section 3.5.2.1 third bullet a) through c) above regarding the management of the dialogue.

Handle the substantive content of the dialogue, whatever its form, as agreed with the EESC.

Make adequate resources available for its undertakings.

3.4.2.4 Participants

Participation will depend on the subject of the dialogue. Depending on that it may be more relevant to have certain categories of people and certain associations as participants in a dialogue rather than others. Targeted efforts may be made to make those groups aware of the dialogue and encourage them to contribute to the dialogue.

In a limited geographic area it may be easier to get relevant participation, for instance if the dialogue is to deal with a TEN T infrastructure project. It may be more difficult to reach the right participants in a wider geographical context, where the interest to participate may be less obvious.

The most important element to make people and interest groups motivated to participate will be to make them feel that participation is worthwhile. This can only happen if the dialogue is known for its capacity to bring results, that is, its capacity to influence the project that is the subject of the dialogue.

This is a further argument for providing resources to account for the results of the dialogue, not only to the stakeholders, but also to the general public.

It is probably inevitable, in particular with an internet dialogue, that part of the participants will not be relevant for the subject of the dialogue. Not much can be done about that and it might in fact be better to have more participants than needed than to have very few. The main requirement on participants would be compliance with the Guidelines for the dialogue and, where applicable, compliance with specific Guidelines relating to the internet dialogue.

3.5   Tools

- **General approach**

There are basically two ways to implement a participatory two – way dialogue, though organising events or hearing or through an internet platform.

A third possibility is a combination of both, that is, a combinations of an event based dialogue with a dialogue website. An example of this variety is the participatory dialogues organised by Commission Nationale des Debats Publics (CNDP) in France. The CNDP organises debates concerning infrastructure projects through so – called "Commissions Particulières de Debat Public" (CPDP) which mainly work through debates and hearings, but where also for every dialogue a dedicated ad hoc website is set up for an internet dialogue[15].

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[15] See the website of CNDP www.debatnational.fr .

- **An event based dialogue**

There are two main problems with this kind of dialogue. First it reaches a very limited audience and the dialogue as such is animated only in the context of events. Attendance can be fairly great but a limited number of people get the floor. This in its turn may negatively affect the impact of the dialogue.

There remains the question if the relatively restricted number of active participants improves the quality of the debate. This seems unlikely and the fact that the French CNDP has chosen to complement its mainly event based dialogues with an internet dialogue proves the superior efficiency of that kind of dialogue. In fact, according the website of the CNDP, the internet platform is being increasingly used.

On top of that, it may be possible that the selection system necessary in this form of dialogue means that there may be a risk that known and established interest groups will dominate the dialogue. These groups will make their views known in any case, so there is no real added value in their participation in a dialogue of this kind.[16]

For that reason, a question mark may be put against this form of dialogue, possibly with the exception of issues with a very strong local or regional aspect, such as infrastructure projects, where on may consider that events such as conferences, hearings or workshops could have an added value.[17]

Finally a high quality combined events and internet based dialogue can be quite costly – the medium cost of the dialogues organised by CNDP is in the amount of 850 000 €. It should be remarked that this amount includes everything and that the cost of the entire procedure except remuneration of the panel that manages the dialogue under French law falls upon the project promoter. This includes putting together a very complete and accessible information pack, which must be updated as dialogue proceeds as well as ensuring participation in the substantive dialogue at events and on the net.[18]

- **An internet based dialogue**

 An internet based dialogue is likely to be more flexible and less costly than an event – based one. It requires an internet platform and people to manage it. It could also be envisaged to constitute a separate website for each dialogue, possibly al at the same internet portal. Possibly this would be an interesting option for dialogues concerning infrastructure projects.

There seem to be several major advantages linked to an internet dialogue.

They are flexibility as to the scope, number of participants and capacity to handle and react to questions raised in a continuous manner.

Flexibility also means that the dialogue can be managed from anywhere, which may be useful with respect to infrastructure projects, in different part of the EU.

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[16] Conseil d'Etat, Rapport 2011, pages 71 -74 ...... and Dominique Schnapper «L'esprit democrtaique des lois», Gallimard 2014, pages 137 --142.
[17] Conseil d'Etat, Rapport 2011, page
[18] CNDP website wwww.debatpublique.fr , information pack regarding Commission Particulier de Debat Public

From a user point of view an internet based dialogue should facilitate access to information and make it easier to submit input and receive feedback.

Obviously general follow up matters such as the ultimate outcome of a policy initiative, a legal proposal or an infrastructure project is easier to provide if it can simply be done by displaying the information on a website.

On the face of it, it would also seem that an internet dialogue would be cheaper to implement than an event based one. There would be no or very few journeys and the same staff should normally be able to manage more than one dialogue. This statement is made on the assumption that management of the dialogue means monitoring that he guidelines are being followed and that the substantive part of the dialogue is run by those intervening and the subject responsible for a policy initiative or a legislative proposal, that is, normally the Commission, or, as regards a TEN T infrastructure project, by the Member State or States responsible for the project, or a project promoter delegated by a Member States, both together with the TEN T Core Network Corridor Coordinator.

- **A mixed dialogue**

As mentioned above, a mix of an events and internet based dialogue may sometimes be a useful option, in particular for dialogues on infrastructure projects with a strong local impact where meetings may facilitate information and exchange.

Also when an event based option is chosen, it should always be combined with an internet platform. There are two main reasons FOR THIS.

- An internet platform is an excellent way to provide complete and easy to access information about the project.
- An internet platform makes possible an internet dialogue in parallel with events. This may be an excellent way to make it possible for people who for one reason or another did not intervene at events to do so via the internet. This can avoid frustration and dominance of the dialogue by known interest groups who will be able to transmit their views anyway and only use the dialogue as a means to voice them in another form.
- An internet platform may prove particularly valuable regarding cross border projects to facilitate interventions from two or more countries.

- **Language**

To be consistent with the idea of easy access it should be possible to use all relevant languages in a dialogue.

This means that for a dialogue on a policy or legislative proposal by the European Commission the dialogue should be possible in all EU languages.

The situation is different concerning TEN T projects. The dialogue concerning such projects should be possible in the language of the country or countries concerned by the project as well as in English.

In a dialogue concerning a project between Austria and Italy it should for instance be possible to use German, Italian and English.

The translation and interpretation costs should be dealt with in the same way as the bulk of the costs for the dialogue. They should therefore be covered, regarding policy and legislative proposals by the Commission and concerning TEN T Core Network Corridor projects by the Member State or Member States concerned.

- **Financing**

The cost of preparing and structuring the factual basis for the dialogue in an adequate way is likely to be considerable, particularly in the case of infrastructure projects where there is also a question of presenting sometimes fairly complex technical elements in a way that is understandable also to a non - specialist. This is the case also as regards providing feedback on interventions and updating technical information as well as – if applicable – modifying a proposal or a project.

It is obvious that this service must be provided by, ad appropriate, the Commission in the case of a policy or legislative proposal or, in the case of a TEN T Core Network Corridor project, the Member State or States responsible for a project or the project promoter to whom responsibility for a given project was delegated by a Member State. The same goes for any costs incurred by the Core Network Corridor Coordinator.

That the condition is fulfilled is a basic condition for starting a dialogue. It applies whether the dialogue is an internet or event – based one. It may be remarked, that in an event based dialogue, travel costs and time for being present at events should be added.

The cost for the website as such including costs for its management could be financed in the same way.

On the contrary, as a matter of independence travel costs for PSG Members or Secretariat time ought probably not to be financed that way, but should in principle be drawn on the EESC budget.

- **A set of management Guidelines**

The Guidelines shall be a support for those who manage them and for users. They are also intended to help creating confidence in the dialogue as a fair and reliable instrument for participatory decision making.

Therefore the guidelines have two main functions. The first one is to create a regulatory framework for the dialogue. This is the basic and operational function of the Guidelines. The Guidelines will be the tool which the EESC shall use to make sure that the dialogue is up to the standards set. Creating confidence that those standards are maintained is very likely the most important asset to create confidence in the dialogue and motivate those concerned b y a dialogue subject to participate.

But the Guidelines will have a second function that is also very important. That function is to inspire confidence in the dialogue as an open and fair participatory process. In that regard, the Guidelines may also be considered as a kind of programme or a communication instrument.

Therefore, it is important that there exists a version of the Guidelines that is clear, easy to understand and not too long.

It is recommended that a separate document containing only the operational elements of the guidelines is put together. A draft of such a document is at Annex I.

In any case, a popularised version of the Guidelines should be edited and made available, both on the internet and in paper copies.

- **A Charter for internet dialogues**

It is recommended that a dedicated charter is drafted for internet dialogues. An example of such a charter is at Annex II.

4 Compendium of best practices

4.1 Overview

A fair number of systems for debate, consultation and dialogue exist. A perfect model for the kind of dialogue discussed in this study does not seem to exist, however.

Of the Commission websites aimed at communicating with the public all seem to be foreseen for a one way consultation with no immediate reaction to comments on for instance consultation papers.

Other consultation systems scrutinised are mainly also one way, with a possibility to provide input but no system for providing feedback.

There are a few cases of real two way dialogues at an early stage, that respect transparency requirements as to input and that provides for real feedback.

4.2 Case studies presented

The IFOK Study presents four cases.

1)   A two year (2012 – 2014) dialogue process between the German Federal government and a defined circle of experts and stakeholders (250 persons nationwide) to debate and provide input to planned German mobility and fuels strategy. Different deliberative formats and different consultation and dialogue methods were used.

The work was done in a classical fashion with workshops and technical meetings. Achieved were corrections of the factual base and motivated action recommendations to the government. This work was complemented through a citizens' forum with about 80 randomly chosen citizens.

Largely on the basis of this work, mobility and fuels strategy was adopted. That strategy was then implemented as a learning strategy, surrounded by a similar dialogue set up.

As success factors were defined

- The early substantive involvement
- New networks for cooperation
- Transparent communication
- Neutral professional facilitation[19]

2)   Regional dialogue Forum Frankfurt Airport was a dialogue mediation process dealing with issues concerning exploitation enlargement needs of the airport of Frankfurt. Joint fact

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[19] IFOK Study, pages 5 -15

finding, a good dialogue, transparent communication and professional third party implantation of the process were described as success factors. The process seems to have resulted in certain air traffic restrictions.[20]

Success factors were described as

- Objectivity through information
- Agreement through dialogue
- Transparent communication
- Professional third party implementation of the process

3) E – participation tools were used in preparing a tender for public bus operations in Tartu, Estonia resulted in 500 comments via internet and social media. The process lasted end of March – beginning of April 2010. Success factors are described as follows.

- Clear roles for and clear benefits of the involvement of stakeholders and citizens.
- Transparent and direct impact on decision making
- Active communication of the project, via different channels
- Clever combination of analogue and digital participation formats (Reactions could be submitted via internet or personally, at the town hall).[21]

4) The Fixed Fehmarn Belt Crossing Dialogue Forum started 2011 and will go on until the completion of the project. The Forum works only at the German end of the project and currently deals with questions surrounding the project and is eventually foreseen to address technical aspects of the project. A forum of about 30 members meets every two to three months to discuss issues and to get updated on raised question that members can answer via internet. The Forum also works in workshops and working groups. There is so far very little contact between the two.

Success factors are described as

- Covering the breadth of interests at one table
- Giving the process a face with an accepted central chair
- Outcome orientation toward an open outcome.[22]

Also added may be

5) Dispute [23] is a website with a system for successively amending, editing or drafting documents with the aim of reaching consensus. The procedure as such seems fully participatory. The system is easy to use

6) Digital4EU (former Futurium) is an internet portal managed by the European Commission. It deals mainly with the EU digital market related issues and includes link to conventional consultations.

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[20] IFOK Study, pages 16 - 25
[21] IFOK Study, pages 26 - 34
[22] IFOK Study, pages 35 - 41
[23] www.discuto.io

6)   Commission nationale du débat public (CNDP)[24] is a French state agency that organises and manages dialogues on planned infrastructure projects through Commissions particulieres du débat public (CPDP) that are set up for each dialogue. The dialogues are mixed events and internet, with a website accessible through the CNDP portal. Such dialogues start on the basis of a technical file prepared by the project promoter and often occur in a mixed form of discussions, Q and A sessions and though internet. There seems to be an evolution toward more internet carried dialogues. The dialogues are managed by an independent panel and a secretariat set up for that specific dialogue. Apart from general procedural guidelines, there is also a dedicated charter for the internet dialogue. It basically stipulates that users should identify themselves to the manager and that interventions must respect certain basic standards of good behaviour laid down in the charter (for instance name and email address of the contributor must be given, the content must not be illegal or insulting). The moderator may discard interventions that are not up to standard.

The Charter is at Annex II

4.3   Best practice

The following elements seem to be vital and reappear in more than one context. They come as no surprise, and merely confirm the main principles for a good dialogue discerned in this study.

- There must be transparency meaning early start of the dialogue and early availability of accurate factual information. The information must be presented in a way that makes it accessible to other than experts. Transparency also means making clear at the outset the limits of the dialogue, which may as such produce a number of results/suggestions, but which will have no final decision making power. Not being aware of this may cause huge deception on the part of participants.
- Openness - a dialogue should as far as possible be available to all who can show a reasonable interest in the issue and whose interventions answer to certain minimum standards. Equal treatment for all. This open approach is possible only if internet is used.
- Continuity – Interventions should be reacted on separately and immediately by the decision maker.
- Accountability - Feedback as to results of the intervention and as to the ultimate fate of a proposal or other initiative.
- Integrity and reliability - An independent facilitator or moderator
- All these elements are probably necessary to get in place a dialogue that is seen as trustworthy and worthwhile to participate in.

The above conclusions support the assessments made in this study with respect to the content of the Guidelines and the core principles governing them.

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[24] www.debatpublic.fr

5   Conclusions and recommendations

A minimum requirement is that debates should live up to the core principles set out in these guidelines.

In particular transparency, accountability and integrity and reliability are vital for a successful dialogue.

Internet solutions seem in many ways to be less costly, more practical, more flexible and more efficient tank an event – based dialogue. In particular this kind of solution allows rapid exchange and very good accessibility.

It therefore seems that and internet based dialogue should be the main alternative. Still, events should not be ruled out. They can provide added value, particularly with regard to infrastructure projects. But also when events are used an internet platform should always be available for information and for providing input to the dialogue.

A dialogue can be costly and time consuming for those involved, in particular those who have a responsibility for handling substance.

With a dialogue involving either the entire EU or at least more than one country, communication in all relevant languages must be possible. At the same time interventions must be available to all participants. This means translation or interpretation costs, which must be considered as a necessary cost for the dialogue.

Likewise it would be necessary to create a website for each dialogue, ideally within a common portal dedicated to the dialogue. Using for instance a Commission portal would not be good for the integrity image of the dialogue.

Costs for most of the elements that are needed to make the dialogue work should be paid by those requesting a dialogue, that is, the European Commission or, in case the dialogue concerns a TEN T project, the Member State or States responsible or the promoter to which the state has delegated implementation of a project.

To sound out the possibilities, contact should therefore be established with DG MOVE and with at least one Coordinator.

Apart from sounding out their interest in a dialogue, the financial aspect is particularly important.

Possibly the Member States on a Core network corridor would be more prepared to contribute financially to a dialogue that could reduce problems with the public around implementation of projects, reduce the risk of lengthy and costly procedures and contribute toward giving the planned project a good reputation.

As a first step, contacts with the European Commission and with the TEN T Core Network Corridor Coordinators should be pursued to suggest implementation of one or more tests on the basis of the guidelines suggested in the above guidelines.

In fact, for the moment one or more TEN T Core Network Corridor projects would seem an ideal testing ground for this dialogue concept including the guidelines.

6   Project plan

- **Introduction**

This plan sets out suggestions regarding the contacts to be taken with key actors in order to test and finalise the guidelines, including through one or more pilot dialogue projects.

- **Actions to be taken by the PSG**

1)   Make contact with the appropriate Commission services, primarily the TEN T Directorate and the Unit for interinstitutional matters at DG MOVE to find out about their interest in implementing this kind of dialogue in accordance with the January 2012 letter from Commissioners Kallas and Sefkovic, including financing.

It would be prudent to do this for two main reasons.

- Normally, the request made in the Kallas – Sefkovic letter still stands. Reassurance to this effect was given by the Kallas cabinet end October 2014. Still, given the clear statement about the political discontinuity principle made in the Juncker political priorities, the commitment ought to be checked.
- The issue of the work for the commission services involved to make the dialogue work and the contribution foreseen to costs for a website, translation/interpretation and in general the running of the dialogue must also be checked.

2)   Make contact with one or more TEN T Core Network Corridor Coordinators to find out if they would be interested in dialogues concerning Corridor projects and ready to assist in contacts with member states relating to financing. Possibly an issue to be raised here is if the dialogue option, including financing, should be made part of the Corridor Work Plans and/or in a planned corridor agreement.

A further issue that might be raised in the contacts with the Coordinators is whether the internet dialogue option to be offered by the EESC could be interesting as a way to involve users in the work of the Corridor Fora. Users might be a very large number of persons and companies along a corridor, and a dialogue of the kind planned here could be interesting also for this type of exchange.

3)   Among the TEN T Core Network Corridor Coordinators, Mr Pat Cox, the Coordinator for the Scandinavian – Mediterranean Core Network Corridor has expressed a clear interest in in participating in the development of the dialogue concept. Mr Cox will also participate in the conference in Malmö described in point 5 below.

As far as possible a dialogue should be pursued with Mr Cox in order to develop the dialogue Guidelines and if possible start a first pilot project.

4)   The draft version of the Guidelines, possibly with an internet Charter or Code of Conduct for participation in internet dialogues should be reviewed as suggested by the PSG and an updated version should be submitted to the PSG for approval as the PSG Guidelines proposal.

50) The planned conference in Malmö 6 May 2015 would be a further excellent occasion to get reactions on the guidelines, for instance in the form of a Workshop session.

6) If contacts set out in points 1 through 3 are successful and following the process according to point 3 , the Guidelines, possibly with a model internet charter, similar to the one used by CNDP should be further developed into a set of dedicated Guidelines, an internet charter and a roadmap that sets out a framework for the dialogue, and that resolves practicalities such as resources and financing. That pater should be drafted in collaboration with Mr Cox in accordance with pint 2, third and fourth paras.

7 The Guidelines and Roadmap elaborated with Mr Cox is submitted to the PSG for approval.

8) A pilot dialogue concerning a project or an issue relating to the Scandinavian – Mediterranean Core Network corridor is carried out, if possible during the autumn 2015.

9) A further test opportunity could be in connection with one or more of the Core Network Corridor Fora sessions, with respect to users. A (provision al) website should be in place.

10) On the basis of the work done under points 3 through 8 a finalised set of Guidelines could be formally sent to the Commission and the Coordinators for comments and approval after a period of concertation. The Coordinators might accept to get the approval of Member States and project promoters acting with the authorisation of Member States in the context of the Corridor Fora.

11) It might be considered to submit the Guidelines to a simplified internet dialogue, in parallel to the contacts made in accordance with points 1 through 3 above. A simple dedicated website could be created for this, with a simplified linguistic regime (English only).

12) Objective to have the dialogue option integrated in the Corridor Work Plans or otherwise made part of the Corridor framework by the summer of 2015. If a formal agreement with the Commission is needed, it should also be in place by then.

713) Internally in the EESC consideration would have to be given to create a permanent Working Group to manage the dialogues and take any internal regulative or other measures necessary to make the guidelines work.

- **Milestones and timescale**
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  - Contacts with the Commission and Core Network Coordinators to be sought during April – May 2015.
  - Updating of draft Guidelines in accordance with PSG remarks during April – May 2015. Workshop at the Malmö conference 6 May. Possible approval by PSG 6 May?
  - Elaboration of dedicated Guidelines and Roadmap for a pilot project on Scandinavian – Mediterranean Corridor in collaboration with the Coordinator – May – June 2015. Approval by PSG June – July 2015?
  - Agreement on a pilot project, including financing July – September 2015?

- Pilot project on the Scandinavian – Mediterranean core network corridor autumn 2015
- Summer/autumn 2015 or early 2016 Formal integration of dialogue in the Core network Corridor Framework, possibly formal agreement with Commission and other parties concerned.
- A permanent structure in the EESC – first initiatives autumn 2015

- **Costs and resources**

It is assumed that most costs except those of the EESC moderatorship of the dialogue website would be carried by those requesting a dialogue. Agreements, in an appropriate form, to be concluded with Commission, Member States concerned, Core Network Corridor Coordinators.

That means that the cost to be carried by the EESC wold be that of the meeting of the working group and experts. A further cost would be the time of the secretariat for support to the activity.

The process of finalising the guidelines could draw additional consultancy costs, though certainly not in excess of 5000 € plus disbursements for travelling costs, if any.

Bibliography

The following works/documents have been consulted

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Regulation (EU) 1316/2013 on the Connecting Europe Facility

European Court of Auditors, Special report 3/2010 Impact Assessments in the EU institutions – do they support decision making?

Commission nationale du debat public, documentation on the dialogue procedure and internet charter, all available at www.debatpublic.fr

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Annex I

Draft Guidelines for managing a participative dialogue

Aims and core principles of the dialogue

- The Guidelines should set out the aims and core principles of a dialogue in accordance with Sections 3.2.1 and 3. 4 above.
- They should also set out the obligations of the EES, the Commission or project manager and those of the participants, as indicated in Section 3. 5. 2 above.

Scope and functioning of the dialogue

Scope of the Dialogue

- Before the start of a dialogue, the theme and the scope of the dialogue shall be agreed between the EESC and the Commission or in the case of a TEN T Core Network Corridor project, the Member State or States concerned or the project manager both with the Corridor Coordinator.

  The theme and scope of the dialogue shall be indicated in a set of dedicated Guidelines for each dialogue made public by the EESC, including an indication of the questions that can be influenced by a dialogue and those that cannot. For instance, the plans to launch an initiative or a project may not as such be negotiable, but the way to do it may be open entirely or in part.

  Information regarding the scope of the dialogue shall be provided by the party requesting the dialogue.

Time available for the dialogue

- The time available for the dialogue shall be announced by the EESC. The time available is suggested by the party that requested the dialogue.

  Assuming that the factual information indicated under Transparency below, is available at the start of the dialogue, the time available should normally not be under three months, unless the party requesting the dialogue invokes a motivated urgency.

Transparency

- The dialogue should take place as early as possible in the preparation of a proposal or a project.
- At the outset of a dialogue the draft initiative/decision/project, if yet available, and/or the facts available to the Commission or, concerning a TEN T Core Network Corridor project the Member State or States concerned/project manager and the Corridor Coordinator when

preparing the initiative/decision/project shall be made available to participants in the dialogue by the Commission or the Member State or States concerned/project manager and the Corridor Coordinator.

- When requesting a dialogue, the requesting party shall explain what will be the subject of the dialogue and make clear what points can be amended by the dialogue and indicate what cannot be changed.
- When requesting a dialogue the party requesting the dialogue should explain who will take decisions regarding the proposal or project that is to form the subject of the dialogue. It should also be explained if this decision will be final. For instance, a planned legislative proposal, when decided and put forward will be subject to one of the decision making procedures foreseen in the TFEU.
- Both the draft, if available, and the facts shall be updated as the dialogue develops.
- The above information shall be made available to all those participating in the dialogue.

Openness

- The dialogue must be open, two way and continuous. This means that.
- All pertinent arguments or issues may be raised in the dialogue, new facts be introduced and presented facts questioned.
- The interventions of all participants shall be received, scrutinized and, as appropriate, be made available to all participants.
- Understandable and motivated interventions should always receive an answer.
- All participants should be dealt with on an equal footing.
- Contributions will be dealt with in the order they were submitted.

Grant reasonable time for those concerned to submit their views

- The normal time for reacting on an input to the dialogue shall be indicated by the EESC as project manager. The time limits should be announced at the beginning of each dialogue and be part of the dedicated guidelines for each dialogue.

The EESC should contact the entity responsible for providing the answers if the time limit is not respected.

Accountability

- Feedback shall be given on raised issues. In case arguments raised were not accepted, a reasoned explanation must be given as to how and why.
- On top of the direct feedback in the context of a dialogue, with reactions on interventions, information must also be provided to all participants about the final outcome.

In the case of a policy initiative or a legal proposal this means that information must be provided to those participating in the dialogue about the positions finally taken up by the Commission in its proposal.

But it seems reasonable that participants in the dialogue should also be informed about the final outcome of the EU decision making procedure.

Regarding TEN T Core Network Corridor projects, it seems reasonable to limit the duty to inform participants to the decisions taken at national level regarding the implementation of the project.

- The information provided at the beginning of the dialogue, interventions and answers should be kept three calendar years after the end of the dialogue.

The entity that organises and manages the dialogue is impartial and loyal

- The dialogue must be seen to be impartial and loyal. Particularly in an internet dialogue with direct exchanges between concerned parties and the Commission, a Member State or a TEN T Core Network Corridor Coordinator, it is important that the entity that manages the dialogue and is responsible for its compliance with the standards set out in these Guidelines is not seen as having a particular interest in the proposal or the TEN T project that is the subject of the dialogue.
- The EESC fulfils those criteria and shall manage the dialogue.

Defining the constituency

- The constituency primarily considered for participation in a Dialogue shall be indicated at the outset of the dialogue by the EESC, taking into account the suggestions of the party that requests the dialogue.
- The problem of defining the constituency is primarily a matter of capacity constraints. Such problem will normally not appear in the context of an internet dialogue, but rather when the dialogue is implemented through events such as conferences or hearings.
- When capacity problems impose restrictions on participation, these must be defined on a case by case basis, taking into account the suggestions of the party that requested the dialogue, while also searching a balance between the various interests concerned.
- In the case of an internet based dialogue the only requirement ought to be that interventions should be pertinent to the issue and understandable and the content of which is not illegal. In addition it should be requested that the intervening person or entity can demonstrate a reasonably well founded interest in the subject.

Management authority

- The President of EESC, at the suggestion of the President of the TEN Section following the proposal of PSG decides on the subject and the form of a dialogue (internet dialogue or a dialogue based on events, possibly combined with an internet dialogue).
- The PSG and, by delegation, its chair with the assistance of the TEN Secretariat shall ensure that the dialogue is carried out in compliance with these Guidelines.
- By requesting a dialogue or by participation in a dialogue all participants in a dialogue accept to abide by these guidelines and respect the decisions taken to implement them.

Requirements on interventions

- Interventions should be pertinent to the issue. The EESC though the PWG or its chair or the secretariat may discard interventions that are not pertinent or the content of which is illegal

(for instance expressions of racism, certain other kinds of discrimination). The author of such interventions shall be duly informed.

- When the dialogue is an internet dialogue, a specific code of conduct applicable to the internet platform will apply. Participants in the dialogue will obey those rules. Compliance will be monitored by those managing the platform who will inform the PSG or its chair of any breach of the rules. The PSG or its chair may decide to disregard an intervention in breach of the rules and bar the author from further participation in the dialogue.

Languages

- In all dialogues on policy proposals or legislative proposals all official EU languages can be used.
- In dialogues concerning TEN T Core Network Corridor infrastructure projects, the language regime shall be agreed on a case by case basis between the Member State or States concerned by the project, the Core Transport Network Corridor Coordinator and the EESC.
- In all cases it shall be possible to use English and all information shall always be available also in English.

Reporting and evaluation

- An annual report will be drawn up by the PSG, primarily for the president of the EESC, the Commission the Core Network Corridor Coordinators. The report shall draw attention to possible problems and, if required, suggest amendments to the Guidelines.
- At least every five years an independent evaluation of the dialogue shall take place. The outcome of the evaluation shall be reported to the President of the EESC, the Commission and the Core Network Corridor Coordinators.

Annex II

Charte de moderation et d'animation du portail internet www.debatpublic.fr

TRANSLATION

Cndp National Commission for public debate

Charter for moderating and animation of the internet portal www.debatpublic.fr

The portal www.debatpublic.fr is a place for exchange open for all citizens and all institutions and organisations. It is intended to spread information about the public debate and concertation: CNDP documents, legislation documents from those responsible for a project (project promoters) debate periodicals, electronic mail, calendars for public meetings, news etc.

- The CNDP blog shall receive comments from internauts on posted notices. To do that they must indicate their family name and given name and give a valid and personal e – mail address. This address will not be published on the site nor is it communicated to a third party (except with the Agreement of the person concerned); it is strictly for the use of the CNDP. The CNDP will however make use of this address if considered relevant, for instance to inform it owner of the opening of a new debate in his or her region and/or on a theme about which he or she have already made statements.
- The spaces intended for different public debates (address type: http//:nameofproject.debatpublic.fr) shall receive questions, opinions, viewpoints and comments from the public. Every form of message is made public and is taken into account when drawing up accounts or evaluations concerning the debate, respecting the principles of transparency and equivalence that govern the public debate. The general public can express themselves directly on the webspace or transmit messages by e – mail or normal mail to the special debate commissions who will thereafter see that they are made available on internet (the address of each special debate commission appears on the webspace of each debate).
- All participants are requested to indicate their name, family name and place of residence to make sure that debates develop in transparent and fair fashion.

Those participants who express themselves online can also create an account to express themselves under their own name or under an alias. The commission asks participants to choose as neutral aliases as possible, to ensure a calm debate, and not indicating a given view or affiliation to any group. It reserves the right to ask the creator of the account to modify it or to modify it itself.

To create an account the internauts must provide a valid personal e – mail address. This address will not be published on the site nor communicated to a third party (except with the agreement of the person concerned); its utilisation is strictly reserved to the CNDP. The CNDP will nevertheless use this address in case it is considered appropriate, for instance to inform its owner of the opening of a new debate in his region and/or on a theme concerning which he has already

pronounced himself. In case a participant has chosen to express himself on line under an alias, he must reveal his real identity in the space "create an account" of the debate where he wishes to express himself (see the heading users' accounts below).The CNDP undertakes not to make this identity visible and no to communicate it to third parties. CNDP considers itself entitled to take all measures required to check this identity.

The Spaces dedicated to various public debates are listed on the usual search motors (Google, Yahoo…). Participants are therefore likely to appear in case of a search using their name. To limit this exposition, CNDP undertakes to render anonymous the spaces open for input on the various discussion sites within one month of their closing down.

Every message may be the object of an intervention by the moderator; a moderator should verify that it respects the charter of the chairmanship before publishing it on the site. The role of the moderator is to safeguard and guarantee the quality of the discussions. He should in particular see to it that no messages are published that are considered inappropriate or that do not respect the legislation in force.

This regards in particular the comments, opinions, questions and viewpoints

- That are not related to the questions of the public debate.
- The author of which has not given his name, given name and place of residence, or the e – mail address of whom is not valid.
- Containing attacks, insinuations or insults regarding an organisation or a person, in particular if they are based on belonging to a race, beliefs, ethnic origins or sexual orientation.
- Including wording that is aggressive, contemptuous, obscene or have a pornographic character.
- That pursue commercial or advertising aims
- Mention personal data (addresses, telephone numbers)
- Contrary to authors' rights, respect for privacy, right to pictures
- That are not sufficiently argued
- That reproduce an already published content (copy and paste, repetition)

The moderator reserves his right not to publish a message, to publish only part of a message and suppress considered inappropriate or make minor modifications (particularly grammatical and spelling corrections) to the extent that those modifications do not change the meaning of the message. The moderator undertakes to inform a soon as possible by e – mail the author of a message of its publication, of its possible modification or of its refusal. The moderator will give every question, opinion or viewpoint thematic keywords which will make it possible for internauts to filter published messages by theme.

On the spaces dedicated to different public debates (address of the type http: //nomduprojet@debatpublic.fr) project promoters and the special debate commissions undertake to respond to the questions from the public in reasonable time when they address respectively the project or the debate.

The answers will be made public on the spaces concerned and sent to the author of the question by e – mail or ordinary mail. The special debate commissions will check that the answers provided by the project promoter are coherent and sufficiently complete before publishing and sending them.

The criteria that govern the viewpoints and the Actor's files will be the object of a special set of specifications.

User accounts

Every internaut who wants to create a user account on a space for public debate shall indicate his or her family name, given name and electronic address and choose a related password. He will undertake not to inscribe a third person. He undertakes also to use the identification (e – mail and password) that is valid and up to date. At the end of the inscription procedure the user account is created and the internaut will receive a confirming e – mail.

The representatives of organisations (associations, enterprises, political parties etc.) who wish to express themselves in the name of their organisation should create a specific user account for their organisation, in order that their contributions should not be regarded as coming from a physical person.

Only physical persons or organisations that have a user's account may submit points of view on spaces for public debate.

The internaut who has a user account and submits a comment, a question, an opinion or a viewpoint on the portal www.debatpublic.fr or on a space for public debate undertakes to receive notifications by e – mail when another internaut comments on his contribution. In the same way, participants in a discussion will be notified by e – mail of messages published subsequently concerning the discussion to which they have contributed.

The data and liberty Act

In conformity with the Act "Data and liberty" of 6 January 1978, amended in 2004, you benefit from a right of access, modification, correction and suppression of the information concerning you, which you may use by turning to contact@debatpublic.fr.

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