The Data Transparency Initiative and its Impact on Cohesion Policy

STUDY
Abstract

This study looks at the implementation of the European Transparency Initiative (ETI) in the field of Cohesion policy. The aim of the ETI is to improve communication about EU’s initiatives in general and to enhance transparency on EU spending in particular. The main questions addressed concern the ability of Member States in fulfilling the ETI requirements in the field of Cohesion policy and the conditions under which the ETI can be successfully implemented.
EXECUTIVE SUMMARY

The European Commission launched the European Transparency Initiative (ETI) in November 2005 as a cornerstone of its governance reform. The ETI has four key components: (i) public access to documents; (ii) ethical rules and standards for public officials; (iii) transparency of interest of representatives seeking to influence EU decision-making and upholding minimum standards of consultation, and; (iv) the increased transparency in the use of EU funds.

The ETI aims to increase the quality of consultation and participation in the EU institutions. A high level of transparency is deemed necessary since: “citizens have the right to know how their taxes are being spent and how the power entrusted to political bodies is handled.” The ETI is one of the ways through which the Commission seeks to strengthen public trust in the EU institutions. Transparency, together with increased openness and accessibility, is a step towards enforcing European legitimacy and democracy. Council Regulation No. 1995/2006 indicate that the Commission will provide information on the beneficiaries of funds deriving from the budget and will also make public information on beneficiaries under other types of management.

The ETI is a relevant part of the broader general reform of EU governance. The White Paper on European Governance of 2001 defined the European concept of governance through the five principles of openness, participation, accountability, effectiveness and coherence. They are considered important to reinforce the principles of subsidiarity and proportionality. To the same end of improving governance across Europe, the Commission published a communication on consultation of interested parties for the development of the policy. In the Communication there is a part dedicated to the Minimum Standard of Consultation.

The Green Paper on the “European Transparency Initiative” presented by the Commission on 3 May 2006 presents the framework for the ETI. Following the Green Paper, the Commission proposed the creation of a voluntary register for lobbyists, available on the European Commission website. Concerning Consultation, the Commission has been promoting minimum standards consisting of five categories: Clear content of the consultation process, Consultation of target groups, Publication, Time limits for participation, and Acknowledgement and feedback.

Regarding the transparency of beneficiaries, for the Structural Funds and Cohesion Fund the most relevant regulations are Council Regulation No. 1083/2006 and Implementing Regulation No. 1828/2006. Article 69 of Council Regulation No. 1083/2006 states that the “Member State and the Managing Authority for the Operational Programme shall provide information on and publicize operations and co-financed Programmes. The information shall be addressed to European Union citizens and beneficiaries with the aim of highlighting the role of the Community and ensure that assistance from the Funds is transparent”.

Providing public information on the recipients of EU Funds is a cornerstone of the ETI. With the Structural and Cohesion Funds implemented under “shared management” it implies that implementation is in partnership with the Member States. Following this approach of shared management the Commission entrusts Member States with the implementation of specific Programmes at national level. Information on beneficiaries of EU funds allocated in partnership with Member States is managed at Member State level; the means of disclosure is left to their discretion. Thus, the level of publicity of information differs substantially from State to State, and the absence of a precise Community obligation
makes it difficult to have a complete and comparable scenario of the present situation for each programme or project in each Member State. Some Member States adopt a restrictive approach to publicity, which is frequently due to national laws or data protection practices, traditions and cultural perceptions and sensitivities. One common element, however, is the minimum requirement of annual publication of a list of beneficiaries including the name of the beneficiary, the name of the operation and the amount of public funding paid to the beneficiary. These are binding regulations as defined by the Commission in agreement with all the Member States.

The “Information and publicity” section of Commission Regulation No. 1828/2006 defines the detailed aspects of publicity requirements. The Managing Authority (of the Operational Programme) or the Member State must prepare a Communication Plan to cover all Operational Programmes co-financed by the Structural Funds. The Plan should include a list of all direct beneficiaries of European Cohesion Policy.

Implementing Regulation No. 1828/2006 requires the creation of a Community network of communication officers. On that basis, the INFORM network - Information & Communication Platform (available on the Regional Policy website – INFOREGIO) was established for the ERDF and the INIO network with DG Employment for the ESF.

As part of the study an analysis was made of the operation of these two websites. The main findings were that:

- Information is provided by Member States separately for ESF and ERDF/CF and the two sets of data can be obtained by accessing DG Employment and DG Regio websites, where two interactive maps provide direct links to the lists of beneficiaries of the Funds, available on the respective national or regional websites of the Member States. These links and their content are the sole responsibility of the Member States and are based on information provided by the respective Managing Authorities. The Commission services are, therefore, not responsible for the accuracy or completeness of the information provided;

- Focusing on the regional level, the degree of compliance with ETI obligations was satisfactory. Of the 253 NUTS 2 European regions, 72% and 78% of them provide at least the minimum information required for ESF and ERDF/CF, respectively. The degree of detail and the way of presenting the information on the websites, however, vary greatly according to the region concerned. Variations occur by providing additional information to the minimum requirements and what type of information is disclosed;

- Considering data accessibility and the way they are presented on the websites, it can be concluded that data are easily accessible and it only takes two clicks from the on-line maps to disclose the list of beneficiaries. On the other hand, with a few exceptions, information is only provided in the national languages and currencies so that comparison of data is impossible and a comprehensive global picture is lacking.

What can be concluded is that at EC level the DGs involved in the ETI, DG Regio and DG Employment do play an active role in providing transparency. With a dependence on Member States, however, the results are varied and depend on the administrative tradition not only of the countries but of the Regions. Reservations that can be made in this respect are that as regards programming timing we are only at an early stage, little expenditures and few commitments have yet been made and there is still scope for improvement before verification by the Commission in June. In promoting the ETI, the initiative also makes use
of the “Information Network” of INIO and INFORM, but is hampered by only having an indicative format for the publication of data. The solution could be a more widespread consultation using the already established channels (especially the Monitoring Committee) to achieve a higher degree of transparency in consultation.

In the context of ‘shared management’ it is of particular interest to learn to what extent ETI principles have been applied in the design and implementation of Structural and Cohesion Funds at Member State level, what achievements were made, the bottlenecks and constraints being faced and what lessons can be drawn to further strengthen the initiative.

For the purpose of the study a number of case studies were conducted in different regions of the European Union. They include Finland (North), Italy (South), the Netherlands (West) and Poland (East). The ETI principles as applied in the implementation of Structural Funds for these countries are discussed in their different dimensions and put in the wider context of good governance and use of consultative processes in programme development. In interpreting the findings, we do not claim that these country studies are fully representative of the whole EU, but they give valuable insight into the operation of the ETI at implementation level.

The main findings are the following:

- The competence of the Commission ends where the competence of the Member States begins: through the arrangement of the INFORM/INIO networks the Commission adopts a promotional approach towards ETI rather than imposing the regulation on Managing Authorities, while it is responsibility of the Member States to guarantee the accuracy of the published data.

- ETI is independent from the “contract of Confidence” or other forms of financial control and auditing.

- There are no legal impediments to adherence to the ETI (minimum) requirements. Non-compliance with ETI minimum requirements is limited to a small percentage of Managing Authorities and relates to a lack of administrative capacity rather than reluctance to provide such data. Variations in the data presented are due to a lack of a prescriptive format;

- Individual Member States have been developing their own initiatives to express ETI principles by launching web presentations, digitalizing databases, which includes digital maps and best practices presentations;

- The variability in the presentation and in the conditions of access to data do not allow comparisons at EU level.

- Although widely appreciated, stakeholders involvement in programme development does not automatically imply that the interests of potential beneficiaries are taken into consideration. For some programme components there is less demand than would have been expected;

- Simplifying rules, streamlining procedures and reducing risks are expected to increase the interest and participation in Structural Fund programmes by parties that currently have difficulty in meeting the administrative and financial requirements and do not have specific knowledge of the EU subsidy rules.
In operational terms the ETI is linked to the publication of the list of beneficiaries. Full compliance with the ETI minimum requirements would benefit from stronger regulations and/or a sanction in the case of default and better coordination and support for those Managing Authorities that having administrative difficulties in complying.

The Managing Authorities tend to associate the ETI with the Communication Plan that forms an integral part of the Operational Plan and is submitted to the EC for comments and approval. Such an association is not, however, formally expressed by European regulations and leaves open the question of the scope and outreach of the ETI in operational terms.

The objective that the ETI pursues through the establishment of the minimum requirements is reached if EU citizens actually make use of the data provided. For this to be the case, the usefulness of the data provided needs to be dramatically improved. This involves improvements in terms of both content and presentation, and requires:

- providing additional essential information, besides the “minimum” required. Examples of additional fields are already experimented in some Member States and include examples such as:
  - comprehensive contact details, in particular localisation (for example through postal codes);
  - projects summaries of approved projects, field of activity possibly classified according to a common nomenclature, types of support (loans, grants, venture capital..);
  - description of the project partners (legal status, size ..);
  - ranking in submission and scoring of applications, etc.;

- making the different databases of Member States fully searchable and compatible, so as to make possible an EU-wide outlook of the data presented while preserving their local relevance. In this respect, of specific importance are:
  - the language issue – double versions, local language – English, should be used in all instances;
  - technical arrangements necessary to ensure the compatibility of software, systematic digitalization of databases, digital maps presenting project locations and themes.

Additionally, the ETI could also indicate the optimum conditions for providing full transparency in data presentation. One of the possibilities would be to develop guidelines on web design and contents, best practices presentation, providing project summaries, digital maps and other forms of presentation that enhance the transparency of the Structural Funds and present the results achieved. To ensure an EU-wide outlook of the data presented, two versions (one in the local language and one in English) and technical arrangements ensuring the compatibility of the different databases of the Member States would be also advisable.

In operational terms, at programme management level the ETI does not extend beyond the publication of the list of beneficiaries. Hence, it is considered as an administrative compliance with regulations determining eligibility for EU funding rather than a guiding principle. Transparency and good governance in conceptual terms could be more closely linked and serve as cross-cutting and guiding principles in programme design.

For promoting good governance principles in implementation of the cohesion policy, one of the options could be to have a “good governance scan” used in the formulation of
programmes. The purpose would be that the implementation rules and regulations for each programme would be formulated in such a way that procedures are transparent, provide better access to potential beneficiaries to EU Structural Funds, minimize the financial risk in participation and reduce administrative burdens for participants. The communication plan as an expression of ETI principles could also provide the operational context.

Feedback from different respondents shows that there is a need to simplify rules and regulations and reduce the financial risk for participating beneficiaries, at the same time maintaining control over and scrutiny of how the Funds are spent. Consultation with stakeholders already contributing to the Structural Fund programmes and user surveys of intermediate and facilitating bodies and (potential) beneficiaries, through a bottom-up process, will provide more insight into what the bottlenecks and constraints are to participation in the programmes. Such a consultation process may be given a high profile and provide proper feedback on what is done with the recommendations.

Concomitantly, a more pervasive consultation activity using the already traditional channels (especially the Monitoring Committee) can contribute to achieve a higher degree of transparency in consultation.

Some of the main suggestions to enhance transparency in Cohesion policy include:

- More openness and feedback on the outcome of project evaluations applications and contract negotiations, reasons for rejection and offering the possibility of an appeal;
- Simplification of administrative and financial procedures;
- Reduction of financial risk for beneficiaries.

Thus increasing transparency could serve the objective of good governance in project management. Simplification of rules, streamlining of procedures and reduction of risks are expected to increase participation in Structural Funds programmes by parties which have currently difficulties in meeting administrative and financial requirements and have no specific knowledge about the EU procurement procedures.