

Opinion of the Committee of the Regions on ‘Code of Conduct on Partnership’

(2013/C 17/04)

THE COMMITTEE OF THE REGIONS

- welcomes the Commission's intention of requiring Member States to organise partnership-based cooperation between public authorities at national, regional and local level as well as economic and social partners and NGOs;
- supports the Commission's initiative on the European Code of Conduct on Partnership (ECCP) as a supplement to the Common Provisions Regulation, and deeply regrets the Council decision to remove the Code of Conduct from the negotiation box;
- calls on the Commission to ensure that the ECCP guarantees a real balance between the need for the Member States to comply with partnership requirements set out in the document, and their right to retain their specific provisions and existing practices, especially with reference to the subsidiarity principle;
- stresses that partnership is an essential prerequisite for enhancing the efficiency of cohesion policy, and that only a system of multilevel governance can ensure effective linkage between the strategic guidelines set by the European Union and local and regional challenges;
- requests that local and regional authorities be fully involved in preparing partnership contracts, and also in defining and implementing regional policy investment priorities;
- feels it is necessary to establish an appropriate hierarchy of partners, headed by local and regional authorities, as they express common views, values and interests;
- points to the need to adapt partners to the kind of programme, but doubts whether programmes can be grouped in accordance with the kind of fund.

Rapporteur

Mr SZWABSKI (PL/EA), Chairman of Gdynia City Council

Reference document

Commission Staff Working Document - The partnership principle in the implementation of the Common Strategic Framework Funds - elements for a European Code of Conduct on Partnership

SWD(2012) 106 final

I. POLICY RECOMMENDATIONS

THE COMMITTEE OF THE REGIONS

Introduction

1. shares the Commission's view that partnership is **key** to delivering the Europe 2020 strategy and to the successful implementation of the funds covered by the EU's Common Strategic Framework;

2. welcomes the Commission's intention of **requiring** Member States to organise **partnership-based cooperation** between public authorities at national, regional and local level as well as economic and **social partners and NGOs**, in all aspects of the implementation of EU policies;

3. supports the Commission's initiative on the European Code of Conduct on Partnership (ECCP) as a supplement to the Common Provisions Regulation; the ECCP is a document which **fleshes out and expands** partnership in the process of preparing, implementing and evaluating funds and programmes covered by the Common Strategic Framework (CSF);

4. deeply regrets the Council decision to remove the Code of Conduct from the negotiation box, in this way ignoring the positions taken by the European Parliament and CoR who will continue defending the need of such an instrument within the 2014-2020 programming period;

5. in the light of the above, calls on the Commission to ensure that the ECCP guarantees a **real balance** between the need for the Member States to comply with partnership requirements set out in the document, and their right to retain their specific provisions and existing practices;

6. in connection with this, suggests that consideration be given to the inclusion in the draft ECCP of a procedure for **prior agreement** on the method for individual Member States to meet partnership requirements, in line with their specific conditions. The provisions of such agreements would provide the Commission with a basis for checking the compliance of partnership contracts and programmes with the requirements of the ECCP;

7. points out and emphasises that cohesion policy intrinsically **combines a strategic dimension with devolution of**

responsibilities to local and regional authorities, which have the experience and expertise indispensable for effective implementation in the Member States. Once there is agreement on general strategy with the Commission, key decisions on matters such as project selection and management are often a regional responsibility;

8. stresses that partnership is therefore an essential prerequisite for enhancing the **efficiency** of cohesion policy, enabling adaptation of strategic guidelines set by the European Union to local and regional challenges. In practice, only a system of **multilevel governance** involving all levels can effectively combine these two dimensions. Local and regional authorities are a key component of multilevel **governance** and cannot therefore be put in the same category as partners from the **non-governmental** sector;

9. at the same time, **disapproves** of an approach to implementing multilevel governance which in effect gives a greater role to higher levels of government than to lower levels in partnership procedures. The ECCP should resolutely encourage Member States to take effective action to prevent such situations arising;

10. requests that local and regional authorities be fully **involved in preparing partnership contracts** between the Commission and the Member States, with a requirement for such contracts to include a provision setting out the agreed rules for cooperation between national and local or regional authorities, which could be included as one of the *ex ante* conditions set out in the General Regulation;

11. would also like to see local and regional authorities playing a key role in **defining and implementing regional policy investment priorities**; therefore calls on the Commission to confirm the leading role of local and regional authorities in relation to other partners identified in the ECCP;

12. endorses the Commission's declared intention of setting out in the ECCP only a **minimum** definition of the requirements for Member States to involve partners in the various programming stages; at the same time, expresses the hope that the requirements will be sufficiently demanding and clear to ensure genuine partnership on the most important issues;

13. particularly stresses the importance of the **subsidiarity and proportionality** principles, which should on the one hand permit and enhance involvement in partnership of entities at a level corresponding to the territorial scope of a given programme, and on the other hand guarantee a degree of participation for partners which matches their potential and role in the implementation of the programme;

14. draws attention to the fact that, apart from differences in institutions and political culture, Member States **differ significantly** in land area and in the size and spatial distribution of their populations. These differences at national, regional and local level in practice create very different situations in individual Member States which impact on the methods for implementing partnership;

15. welcomes the fact that the Commission intends to adopt the ECCP as a delegated act **immediately** after the entry into force of the Common Provisions Regulation. In the event that it is decided to give the document a different legal status, the Committee would call for solutions ensuring a real, high-quality improvement in compliance with partnership principles in the 2014-2020 budget period;

Partners

16. points out that the **division in the draft ECCP of potential partners into three groups**: (a) regional and local public authorities, (b) economic and social partners and (c) bodies representing civil society, including environmental partners, non-governmental organisations, and bodies responsible for promoting equality and non-discrimination, places on the same level bodies of very different kinds and with different opportunities for exercising a real influence on the implementation of programmes;

17. in view of the above, feels it is necessary to establish an **appropriate hierarchy of partners**. This partnership hierarchy should be headed by **local and regional authorities**, given that they have political legitimacy and thus also political responsibility and financial liability. They are thus obliged to represent general interests. They are also responsible for implementing numerous programmes and projects. Furthermore, in some countries where power has been devolved, regional authorities have legislative powers;

18. points out that the statement about regions as key actors in the organisation of the partnership process in 'decentralised' Member States should not be taken to mean that in other Member States this role must be played by national authorities;

19. shares the Commission's view that it is particularly **important to select institutions, organisations** and groups which can exercise a real **influence** on the implementation of a given programme or which are significantly affected by its realisation;

20. welcomes the fact that the Commission acknowledges the procedures and techniques **already established** in the Member States for partnership implementation (workshops, surveys, forums, consultations, meetings), while also drawing attention to the need to take account of the **revolutionary changes in forms of social communication** in connection with the spread of new telecommunications technologies. The ECCP should encourage Member States to be more adventurous and innovative in this connection. This is also necessary in order to involve the youngest citizens in partnership processes;

21. shares the Commission's concern to include representatives of the **most sensitive and marginalised groups**. There is, however, no need to mention them by name in the general document, as, depending on local conditions and the specific programme concerned, different groups may be involved;

22. points out, however, that in view of past experience of social **conflicts** arising from the implementation of certain initiatives, the ECCP should encourage Member States to involve representatives of groups and bodies which might have a critical view on the implementation of a given programme in the partnership process at an early stage;

Regional, local, urban and other public authorities

23. points out that **partners representing regional and local communities**, irrespective of their formal competences in individual Member States, express common views, values and interests. In this connection their position as partners is objectively different from that of sectoral and social partners representing sectional views, values and interests. This fact should be **clearly reflected** in the ECCP document;

24. suggests that the kinds of territorial body which can be involved in the partnership process should be specifically mentioned in the ECCP. This particularly concerns bodies which are not territorial units of a given Member State: **functional areas** (urban, rural, infrastructure, nature, cross-border, coastal etc.), territorial inter-municipal cooperation groups and cooperation networks of towns;

25. supports the Commission's intention of **requiring**, in the context of the ECCP, **regional authorities managing programmes** to organise, at all levels of programme implementation, **partnership** between representatives of local and urban authorities, economic and social partners and civil society, including environmental partners, non-governmental organisations, and bodies responsible for promoting equality and non-discrimination;

26. suggests that **town authorities and representatives of functional urban areas** be involved in partnership processes not only when they are implementing integrated territorial investments (ITI), but always when this is useful in the context of a given programme;

Economic and social partners

27. agrees with the Commission's view that **employees' and employers' organisations** should be given an **equal role** in partnership. Account must be taken, however, of the very different levels and methods of organisation of these bodies in different Member States. In many sectors the nature of the work in effect makes it impossible to establish employees' organisations. The ECCP should contain recommendations which, while not imposing specific solutions, require the Member States to draw up procedures for cooperation with economic and social partners, taking account of national, regional and even local characteristics;

28. points out that, in view of the situation on many European labour markets, **organisations or institutions representing job-seekers**, especially those who are young and well qualified, should be included among the social partners mentioned;

Bodies representing civil society, including environmental partners, non-governmental organisations, and bodies responsible for promoting equality and non-discrimination

29. fully supports the Commission's suggestion that partnership with the numerous and diverse organisations representing civil society should be based on partnership with **umbrella** organisations, and that the development of various **forms of networking and cooperation** between individual organisations participating in partnership should be supported;

30. points out that the ECCP should identify clear and transparent **criteria for the selection of representative NGOs**, mainly on the basis of their competences and history of activity in the area covered by the programme in question;

The Partnership Process*Adapting partnership to the programme*

31. points to the need to **adapt partners to the kind of programme**, but doubts whether programmes can be grouped in accordance with the kind of fund (European Agricultural Fund for Rural Development, European Regional Development Fund, European Maritime and Fisheries Fund, Cohesion Fund, European Social Fund), particularly as it is planned to co-finance programmes from several funds. The choice of partners should be determined by the type of programme and its area of activity;

32. suggests that the ECCP incorporate a general principle that the recognition of a specific kind of partner as **key** should not automatically exclude other bodies from participation in partnership, if this is justified;

33. points out that, in programmes financed by the European Regional Development Fund or the Cohesion Fund,

it is necessary to ensure that partnership includes organisations representing **groups of regional and local communities, not least cross-border groups**;

34. feels that **R&D bodies** should be included as partners in appropriate of programme, with the scope and form of partnership matching their specific features. This arises from the complexity of modern development processes and the need for access to detailed expert knowledge with a view to effectively influencing these processes;

Involving partners in the preparation of programming documents

35. agrees with the Commission's suggested approach of involving partners at the **earliest possible stage of programming**, and with the idea of separating such partnerships from the Strategic Environmental Assessment (SEA) procedure;

36. in particular, emphasises the importance of **involving local and regional authorities** in the following programming stages: (1) analysing the needs and challenges addressed by the Common Strategic Framework (CSF), (2) selecting objectives and priorities, and (3) coordinating mechanisms in order to achieve development synergies; at the same time, encourages Member States to spell out how they intend to guarantee such partnerships;

Drawing up Partnership Contracts

37. suggests that some general requirements be defined for Member States to develop procedures ensuring genuine partnership in the course of drawing up partnership agreements;

38. believes that the competent local and regional authorities should be an integral part of the negotiation process for the preparation of **partnership agreements** at both national and regional level;

39. appreciates the fact that the draft ECCP reflects the Committee of the Regions' initiative on **Territorial Pacts for Europe 2020** as a key component of multilevel governance; at the same time, feels that this instrument has not been sufficiently used;

Principles of participation in partnership

40. **accepts and supports** the **requirements** set out in the draft ECCP for Member States to establish **clear partnership procedures** in relation to the following issues: (1) making documents accessible at an early stage, (2) ensuring sufficient time for partners to familiarise themselves with documents, as well as for consultation and feedback, (3) ensuring that information channels are in place, (4) ensuring transparent responses to suggestions and comments, and (5) disseminating the findings;

Information in the programming documents on partnership implementation

41. **accepts and supports the requirements** set out in the draft ECCP for Member States to include detailed principles for partnership in the Partnership Contracts. However, such requirements should reflect the specific situation in the individual Member States. This particularly applies to the situation of public authorities at regional and local level;

Composition, importance and procedures of the monitoring committees

42. agrees with the Commission that **monitoring committees have a key role to play** in implementing all programmes under the European Union's Common Strategic Framework (CSF); accepts and supports the detailed requirements for Member States set out in the draft ECCP with regard to the involvement of partners, in particular public authorities at regional and local level, in setting up monitoring committees. These authorities should be involved in the ongoing activity of **monitoring committees** and the development of the official principles underlying such activity;

Involvement of partners in project selection

43. accepts the proposal for a suggestion in the draft ECCP that managing authorities define detailed requirements, with a view to: (1) involving the relevant partners in defining principles for **calls for proposals** and evaluating projects, (2) effectively **preventing conflicts of interest between partners**, (3) ensuring there is a regular turnover of persons representing the partners involved in the calls for proposals, and (4) ensuring that the partners are fully aware of their **obligations** arising from involvement in project selection procedures. Local and regional authorities have a particularly key role in selecting projects expected to have a territorial impact;

Involving the partners at the reporting and evaluation stages

44. accepts the proposal for a suggestion in the draft ECCP that managing authorities define detailed requirements for involving **partners in drawing up annual reports** on programme implementation, as well as periodic reports on implementation of Partnership Contracts in the first half of 2017 and of 2019, particularly in relation to the information they include on progress and the partners' role in implementation;

45. agrees with the Commission's insistence that an evaluation plan be drawn up by managing authorities for each programme under the Common Strategic Framework (CSF); also believes that there is a strong need to justify the **adoption of differentiated rules for drawing up evaluation plans** for programmes funded from the European Regional Development Fund (ERDF), the European Maritime and Fisheries Fund (EMFF), the Cohesion Fund (CF) and the European Social Fund (ESF) on the one hand, and on the other from the European Agricultural Fund for Rural Development (EAFRD);

Assistance for partners

46. owing to insufficient knowledge and limited resources, it may be difficult for some partners, and in particular organisations representing civil society, including environmental organisations, non-governmental organisations and bodies responsible for promoting equality and non-discrimination, to become sufficiently involved in the partnership process;

47. therefore accepts and supports the suggestion in the draft ECCP that Member States some of the funding earmarked for technical assistance to support weaker partners.

Brussels, 29 November 2012.

*The President
of the Committee of the Regions*
Ramón Luis VALCÁRCEL SISO
