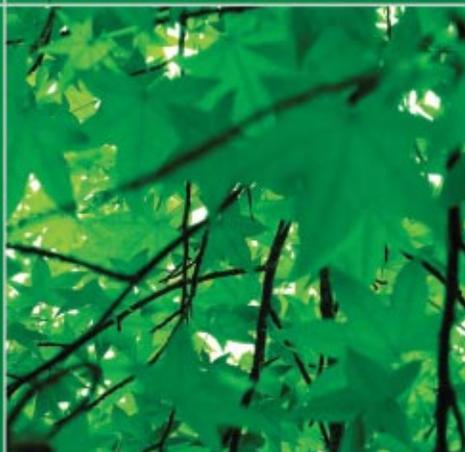


Best Available Practices



CEE bankwatch network

 Friends of the Earth Europe

 Institute of Environmental Economics

Public Participation in Programming, Implementing and Monitoring EU Funds

BEST AVAILABLE PRACTICES

BEST AVAILABLE PRACTICES

PUBLIC PARTICIPATION IN PROGRAMMING, IMPLEMENTING AND MONITORING EU FUNDS

CEE BANKWATCH NETWORK
FRIENDS OF THE EARTH EUROPE
INSTITUTE OF ENVIRONMENTAL ECONOMICS



SEPTEMBER 2004

SEPTEMBER 2004

The report has been prepared within the project *Public Eye on EU Funds - Public Participation and Monitoring EU Funds in the New Member States from Central and Eastern Europe*, implemented by the Institute of Environmental Economics and CEE Bankwatch Network, with the financial support from the European Community.

This document has been produced with the financial assistance of the European Community. The views expressed herein are those of the authors and can therefore in no way be taken to reflect the official opinion of the European Community.



EDITORS:

Andrzej Guła

Institute of Environmental Economics
andgula@iee.org.pl

Helena Zamkovska

zamkovska@changenet.sk

Anna Dworakowska

Institute of Environmental Economics
ania@iee.org.pl

DESIGN&PRINTING

Fabryka Rekalmy www.forms.pl

Copyright © 2004 Institute of Environmental Economics
and CEE Bankwatch Network

TABLE OF CONTENTS

Executive summary	7
Acknowledgements	9
List of abbreviations	10
1. Introduction	11
2. NGO participation in the programming of EU Funds	16
3. NGO participation in the implementation of EU Funds	38
4. NGO participation in the monitoring of EU Funds	57
5. Independent NGO monitoring	73
6. Conclusions and recommendations	89
7. List of case studies and contacts to the representatives	102
8. References	109

EXECUTIVE SUMMARY

This report presents some examples of good practices in cooperation between authorities responsible for programming management and control of European Union (EU) Funds, and non-governmental organisations (NGOs) in new and old Member States as well as candidate countries. It also presents some actions NGOs have undertaken with regard to the processes of programming, implementing and monitoring EU funds.

For many years NGOs have called for increasing transparency in the use of EU funds, for infrastructure project compliance with national and EU environmental legislation, for efficient allocation and use of financial resources, as well as for promoting projects that respect the concept of sustainable development. The changes NGOs have advocated, however, have rarely been taken into account and have even often been ignored. Considering that EU Funds constitute substantial financial assistance to the new Member States and will shape the economic, social and environmental development of those countries in the years to come, it is extremely important that the use of these funds is independently monitored by non-governmental organisations. Therefore, NGOs should be granted the right to an active role in the programming, implementation and monitoring processes. In our report, we present some examples (case studies) that can be considered as good-cooperation practices; they may offer guidance that may be followed in countries or areas where public participation still requires more attention. The application of the partnership principle varies substantially among the new Member States and these countries may learn much from one another. The report includes recommendations, suggestions and challenges regarding the establishment of a stronger partnership principle between the EU and national authorities and NGOs (in particular those working in the field of environmental protection).

The report comprises an Introduction presenting background information on the partnership principle with regard to EU funds and NGO involvement in this field. Three sections follow on EU Funds Programming, Implementation and Monitoring. Each of

these sections presents basic information on the process, analyzes the potential for NGO involvement and reviews issues identified as potential problem areas. For each issue, we have attempted to provide case studies of positive solutions to the problems. Next is the chapter on independent NGO monitoring performed outside the official structures established for programming, implementation and monitoring of EU Funds. In this section the report also presents NGO attempts to fight corruption and fraud in the EU funds operations. Although the report presents a considerable number of case studies, some issues still remain without any positive response to the challenge, thus proving that enormous potential and need for improvement in the implementation of the partnership principle with respect to EU funds still exist. Therefore, the next section suggests a number of recommendations aimed at increasing NGO participation in the processes of programming, implementing and monitoring EU funds. Cognizant that a considerable number of publications have been produced on the subject, we have included a reference list in the final section of the report.

ACKNOWLEDGEMENTS

We would like to thank the following people for their contribution to this report:

Frank Augsten, Miroslava Cierna, Teodora Dönsz, Akos Eger, Istvan Farkas, Michaela Galvankova, Andrzej Kassenberg, Martin Konecny, Maja Kruk, Constantinos Liarikos, Peep Mardiste, Svetla Nikolova, Alda Ozola, Krzysztof Smolnicki, Anelia Stefanova, Magda Stoczkiewicz, Marta Śmigrowska, Tomasz Terlecki, Juraj Zamkovsky

We are also grateful for useful comments to the following people:
Zuzana Drhova, Pavel Pribyl, David Stulik, Martina Svobodova

LIST OF ABBREVIATIONS

CEE	Central and Eastern Europe
CEE BWN	CEE Bankwatch Network
CF	Cohesion Fund
CSF	Community Support Framework
DP	Development Plan
EC	European Commission
EIA	Environmental Impact Assessment
ENGO	Environmental Non-governmental Organisation
ERDF	European Regional Development Fund
ESF	European Social Fund
FoE	Friends of the Earth
IA	Implementing Agency
ISPA	Instrument for Structural Policies for Pre-Accession
MA	Managing Authority
MC	Monitoring Committee
NDP	National Development Plan
NGO	Non-governmental Organisation
OP	Operational Programme
PC	Programme Complement
PT	Planning Team
RDP	Regional Development Plan or, in some cases, Rural Development Plan
REC	Regional Environmental Center
ROP	Regional Operational Programme
SAPARD	Support for Pre-Accession Measures for Agriculture and Rural Development
SEA	Strategic Environmental Assessment
SFs	Structural Funds
SOP	Sector Operational Programme
SPD	Single Programming Document
WG	Working Group
WWF	World Wildlife Fund

1. INTRODUCTION

The European Union (EU) accession process in Central and Eastern Europe is often viewed as a historical chance for democracy, transparency and the environment. Pre-accession financial and policy assistance provided to candidate countries by the EU was intended to be a learning exercise on the fair and effective use of public finances. This learning exercise was also needed to prepare the way for more efficient use of the much larger Structural and Cohesion Funds after EU accession. In preparation for EU membership, candidate countries were expected to develop legal and institutional foundations that would not only reflect the long-term public interest, but also be compatible with good practices in administration of public funds.

For this reason, the CEE Bankwatch Network and the Friends of the Earth Europe have closely monitored the manner in which EU financial assistance is managed and used in the region. As experience showed, however, spending EU funds often became a political priority – sometimes at the cost of insufficient attention to project efficiency and quality, environmental impact and a more strategic and comprehensive approach to utilising EU assistance. As a result, EU-taxpayers' money and domestic co-financing have often been used to finance unsustainable projects directed by non-transparent institutions that lacked democratic practices and in a manner that excluded citizens from real participation in the programming, implementation and monitoring of EU funds.

We have revealed a number of deficiencies within administration structures, insufficient or absent rules to combat irregularities or even corruption and bad practices in management of these funds. We have also seen EU funds used to finance projects with a destructive impact on the environment, violating the environmental goals and legislation of either the given country or the EU. We have also observed deficiencies in the enforcement of EU policies and legislation, as well as an excessive focus on the monitoring of formal aspects, whilst disregarding efficiency and quality evaluation of projects. Environmental NGOs have heavily

criticised the improper application of ex-ante evaluation tools, such as environmental impact assessment. Such tools have often been used exclusively to prove that a given project option should be implemented, instead of investigating the real impacts of the project and considering the impacts of different options.

We strongly believe that among the most important factors that pre-determine the quality of use of public funds are transparency and public participation in all the related processes: from programming and implementation to monitoring. Transparency in decision-making and – especially environmental – NGO participation also can help to limit unnecessary deleterious effects of investment projects on the natural environment.

According to the Article 8 of Council Regulation (EC) No 1260/1999 of 21 June 1999, laying down general provisions on the Structural Funds, these processes are subject to the partnership principle. This means, that:

1. *Community actions shall complement or contribute to corresponding national operations. They shall be drawn up in close consultation, hereinafter referred to as the „partnership”, between the Commission and the Member State, together with the authorities and bodies designated by the Member State within the framework of its national rules and current practices, namely:*
 - *the regional and local authorities and other competent public authorities,*
 - *the economic and social partners,*
 - *any other relevant competent bodies within this framework.*

The partnership shall be conducted in full compliance with the respective institutional, legal and financial powers of each of the partners as defined in the first subparagraph.

In designating the most representative partnership at national, regional, local or other level, the Member State shall create a wide and effective association of all the relevant bodies, according to national rules and practice, taking account of the need to promote equality between men

1. Introduction

and women and sustainable development through the integration of environmental protection and improvement requirements.

All the designated parties, hereinafter referred to as the „partners”, shall be partners pursuing a common goal.

- 2. Partnership shall cover the preparation, financing, monitoring and evaluation of assistance. Member States shall ensure the association of the relevant partners at the different stages of programming, taking account of the time limit for each stage*

Actual experience, however, shows that the transposition of general EU provisions does not necessarily guarantee the proper implementation of the partnership principle on the national level. An additional problem is that non-governmental organizations are not specifically mentioned, whilst the vague wording leaves it up to national practices whether NGOs are included in the process of EU Funds management or not. National legislation often does not provide citizens with access to timely and sufficient information, nor does it furnish clear, effective and enforceable tools for participation in the aforementioned processes, even if such legislation is compatible with the general provisions of the EU regulation.

This is one reason for the CEE Bankwatch Network and Friends of the Earth Europe's interest in following this issue since 2000 in eight accession countries: Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland and Slovakia. Backed by a longer-term systematic approach, we have suggested a number of solutions on different levels in order to improve the current system and to prevent repetition of past problems in future. Our proposals, supported by concrete case studies and research, were submitted to competent representatives of national authorities as well as EU officials in a number of publications, petitions, requests and letters.¹ While officials have often listened to us carefully, we still anxiously await the inclusion of our concrete proposals into the principles of

¹ <http://www.bankwatch.org/issues/eu/meu.html>, <http://www.coalition-on-eufunds.org/>, <http://www.foeeurope.org/activities/Enlargement/index.htm>

the EU financial framework for the 2007-2013 programming period.

Yet, even a proper legal and institutional framework remains insufficient to ensure effective public participation. The potential of civil society itself to fulfil its watchdog role is another relevant factor. Often, lack of financial resources, personnel capacities and skills precluded effective NGO participation in the programming, implementation and monitoring of EU funds on national levels.

Therefore, the CEE Bankwatch Network and Friends of the Earth Europe, have promoted the creation of independent NGO monitoring committees, organised skill-sharing workshops and initiated roundtables and conferences in order to enhance the abilities of NGOs to monitor the behaviour of public institutions responsible for the management of EU funds and enable them to participate effectively in important processes. Clearly, however, creating fertile ground for the independent monitoring and public supervision over the management of public funds should not be the unique domain of NGOs; we see this as an inseparable component of the public interest. Without the EU and national authorities' full recognition and the allocation of sufficient resources, the value professional NGO monitoring can add will not be realised.

To date, most of our previous outputs were focused on the dark side of the system of EU funds management. This time, however, we devote our attention to good practices that our member groups have documented in their countries during the last five years. Apart from a great number of deficiencies that must be addressed as soon as possible, we have also discovered several positive approaches that different public authorities in different countries have taken that deserve to be further developed and duplicated in the remaining countries.

The purpose of this publication is to share and promote practical information about innovative approaches to public participation in the programming, implementation and monitoring of EU Funds across new EU Member States. Such information can serve as another input in raising the quality in the planning and

implementation of the use of EU public money. Although the case studies describe positive examples, the authors also refer to some negative aspects that still require improvement in order to make the practice of implementing the partnership principle truly exemplary. Therefore, the cases should be regarded as best available identified practices, though this is not to suggest that these practices do not require further improvement.

This publication is addressed to public officials who often represent the most important factor in influencing the quality of EU funds management and to members of monitoring or steering committees representing civil society, whose role is to ensure that the management of EU funds complies with the principles of partnership, transparency and sustainability. Further, the work is also addressed to a wider NGO community interested in those issues; we hope that it will facilitate the promotion of good practices in public participation with regard to EU funds.

2. NGO PARTICIPATION IN THE PROGRAMMING OF EU FUNDS

This chapter briefly describes the programming process for Structural Funds, the Cohesion Fund, ISPA and SAPARD and discusses the role that NGOs can play in the process. Furthermore, it presents some areas in which problems with NGO participation have been identified. Following introductory information on programming, the chapter offers case studies of positive patterns in some of the structural assistance programmes in various new and old Member States, as well as current candidate countries; these practises should be further propagated.

The programming process

Implementation of EU structural assistance to its Member States is based on 7-year programming periods. In the programming process, the aims and mechanisms of EU funds assistance (approximately one-third of the EU budget) are laid down.

The Structural Funds (SFs) are intended to finance multi-year development programmes and not individual projects. The process of preparing the programmes² – programming – should ensure the coordination of the Structural Funds with one another and with the remaining financial instruments, such as the Cohesion Fund and the European Investment Bank. The aim of programming is also to ensure that the activities of the Funds and the operations they co-finance are compatible with other Community policies and comply with Community legislation.

For the Structural Funds for the period 2000 - 2006, the programming process and the content of the programming documents are set up by Council Regulation No. 1260/1999 laying down general provisions on the Structural Funds. The regulation defines three main Objectives of the Funds: Objective 1 - promoting the development and structural adjustment of regions whose

² Programmes are defined and specified in the programming documents.

development is lagging behind other regions, Objective 2 - supporting the economic and social conversion of areas facing structural difficulties and Objective 3 - supporting the adaptation and modernisation of policies and systems of education, training and employment. Although differences in the programming process for each Objective exist, the following common steps can be identified.

First, Member States have to prepare Development Plans, which should include a precise description of the economic and social situation of the country or region, a description of the most appropriate strategy for achieving stated development objectives and indications on the use and form of the financial contribution from the Structural Funds.³ Development Plans can either present an analysis at the national level – National Development Plans – or at the regional level – Regional Development Plans. Next, Member States submit the plans to the Commission for approval.

A Development Plan serves as a basic document for the implementation of the country's structural and regional policy and is elaborated in compliance with the *Commission Guidelines for Programmes in the period 2000 – 2006*. Upon approval by the Commission, a Plan forms the basis for drawing up the Community Support Framework or the Single Programming Document.

The Community Support Framework (CSF) is adopted by the European Commission in agreement with a relevant Member State and constitutes the basic programming document setting out a plan for support from Structural Funds under Objective 1 in a particular Member State. It specifies the strategy and priorities for implementation of the Funds and the amount of indicative allocation from the Funds. As the CSF is a general document, it is augmented by Operational Programmes (OPs), which present more detailed arrangements for implementation of CSF priorities either in a given region (Regional Operational Programmes) or Sector (Sectoral Operational Programmes). They specify how the allocated

³ <http://europa.eu.int/scadplus/leg/en/s24000.htm>

Funds will be spent, what will be their impact and how the programmes will be monitored and evaluated.

Single Programming Documents are used in place of CSF for programming of assistance under Objective 2 and Objective 3, as well as Objective 1 if the allocation from the EU is less than 1 billion euro. These documents compile the data contained in a Community Support Framework and Operational Programmes: the programme's priorities, a short description of the proposed measures and an indicative financing plan.

A Programme Complement (PC) supplements each SPD and OP; a PC is a document implementing the assistance strategy and priorities and contains detailed elements at the measure level. The Member State or the managing authority (MA) appointed by the Member State⁴ adopts the PC and sends it to the Commission for information.

The Cohesion Fund (CF) provides assistance for environmental and transport infrastructure projects. Although, general fields of assistance (environment, transport) are defined in the regulation establishing the CF (1164/94), and the European Commission makes the decision whether to provide assistance to particular projects, the CF beneficiary countries are obliged to draw up programming documents for the allocation of CF resources. These programming documents are to ensure that CF projects are in line with general transportation and environmental strategies and are known as reference frameworks. They should include⁵:

- A definition of long-term objectives;
- List of individual projects;
- Interim objectives to be achieved by 2006;

⁴ Managing authority means any public or private authority or body at the national, regional or local level designated by the Member State, or the Member State when it is itself carrying out this function, to manage assistance for the purposes of the Council Regulation EC No 1260/1999. If the Member State designates a managing authority other than itself, it shall determine all the modalities of its relationship with the managing authority and of the latter's relationship with the Commission (COUNCIL REGULATION (EC) No 1260/1999).

⁵ Guide to Cohesion Fund 2000 - 2006; European Commission; February 2000

- Projects to be carried out to achieve those objectives;
- For each project, an initial indication of the investment costs and an indicative plan of financing sources.

The ISPA Fund provides assistance for the candidate countries according to similar rules as the CF. Assistance is granted to finance transport infrastructure and environmental projects. The rules for using the ISPA Fund resources are laid down in the regulation establishing the ISPA Fund (1267/1999/EC). Beneficiary countries have been asked to prepare similar programming documents (reference frameworks) as those for the CF.

The SAPARD programme provides assistance to the candidate countries according to similar rules as for the Structural Funds. Besides Council Regulation No. 1260/1999 laying down general provisions on the Structural Funds⁶, the rules for using the SAPARD programme assistance are set out in the EC Regulation No 1268/99 on Community support for pre-accession measures for agriculture and rural development in the applicant countries of Central and Eastern Europe in the pre-accession period. The applicant countries have been asked to prepare rural and agricultural development plans to the Commission. On the basis of these plans, the Commission approved particular rural and agricultural development programmes (generally known as SAPARD programmes).

NGO participation in programming

According to the general provisions on the SFs, Regulation (EC) No. 1260/1999, the process of programme preparation – programming – must respect the ‘partnership principle’. This means that national governments must invite into this process regional and local self-governments, businesses and other social and economic partners, including non-governmental organizations (NGOs), especially organisations “working to protect environment and to promote

⁶ As well as the EC Regulation No. 258/99 on the financing of the common agricultural policy and EC Regulation No. 1257/99 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF)

equality between men and women”⁷. It appears that SFs are more open to the partnership principle in general than, e.g. the CF, for which there are no direct provisions that would oblige a Member State to include social and economic partners in the programming process.

NGOs can participate in the programming process during consultations of programming documents (e.g. OPs, DPs, or reference frameworks). Apart from this, they are sometimes invited or allowed to participate in various planning teams and working groups involved in preparing the aforementioned documents. If the government does not organise public consultations, NGOs can themselves organise advocacy campaigns for the «greening» of the programming documents, for the proper implementation of environmental ex ante evaluation of the programming documents or for the introduction of a strategic environmental assessment process to the preparation of the development plans and programming documents.

The role of NGOs, especially environmental NGOs, in EU Funds programming is to propose and enforce adoption of such aims, goals, priorities, measures and eligible activities⁸ in the development plans and programming documents that support economically sustainable and environmentally friendly use of the EU finances. Furthermore, it is important that NGOs pursue development and adoption of clear, transparent and enforceable mechanisms for EU funds implementation. The more specific and detailed the goals and mechanisms defined in the programming documents are, the fewer problems can be expected during implementation and monitoring of programmes funded from the EU funds.⁹

⁷ Structural Actions 2000-2006 Commentary and Regulations, page 26, European Commission, 2000.

⁸ Eligible activities: activities that can be supported within the particular measure (usually an indicative list of activities is given for each measure in programme complements)

⁹ For example, in some countries specific evaluation and project selection criteria and project evaluation mechanisms are included in the programme complements. In the countries where this is not the case, it is important that NGOs play a more active role during the project selection process, in order to prevent approval of environmentally harmful and unsustainable projects.

Since some of the projects that beneficiary countries propose for financing may be controversial and have negative impacts on the environment, it is of great importance that the programming documents (such as reference frameworks) be subject to open discussion and comments from NGOs. Therefore, NGOs should be granted the right to express concerns about environmental performance of the programmes and projects and the manner in which EU financial resources are allocated. In particular, the role of environmental NGOs in the programming process should focus on ensuring that environmental concerns are properly taken into account in the programming documents.

NGOs that have been monitoring the quality of implementation of the partnership principle in programming for the SFs, CF and pre-accession funds in the new Member States and candidate countries usually report substantial problems and shortcomings in the participative approach to programming¹⁰.

The most important problems NGOs report with respect to their participation in EU Funds programming include:

- **participation of NGOs in programming teams:** NGOs are in most cases not represented on the committees and working groups for preparation of the programming documents; at the same time the current regulation does not mention non-governmental organizations specifically;
- **clarity of rules regulating public participation:** although such rules exist in many countries, they usually allow for broad interpretation of the partnership principle and of the concept of 'social partners';

¹⁰A) *Partnerships for sustainable development? Report on the structural funds programming process in central Europe.* (February 2004); Centre for Community Organizing (Czech Republic); National Society of Conservationists (Hungary); Green Liberty (Latvia); European Centre of Sustainable Development (Poland); Centre for Environmental Public Advocacy (Slovakia); Milieukontakt Oost Europea (Netherlands).

B) *Billions for Sustainability? Lessons learned from the use of pre-accession funds* (November 2002); CEE Bankwatch Network and Friends of the Earth Europe.

C) *The illusion of inclusion; Access by NGOs to the structural funds in the new member states of eastern and central Europe; Report for the Euro Citizen Action Service.* (July 2004); Brian Harvey Social Research, Dublin

- **lack of information about the programming process:** frequently, the responsible authorities do not properly inform the public about the rules, strategy and schedule of programming;
- **changing rules:** changing timetables, substantial changes in programming documents after consultations are closed, etc. lead to a phenomenon NGOs term «organizational chaos»;
- **public consultations:** late launch of the consultation process, brief time period provided for commenting on the documents within the public consultation process, outdated documents on ministerial websites, low participation in consultations due to the poor organization of the events, etc;
- **NGO capacities:** very often NGOs lack the proper institutional capacity to participate effectively in the programming process.

Nevertheless, we have managed to identify positive approaches in different countries that deserve our attention since they may serve as good practices in the context of the new programming round for 2007-2013. Case studies of positive implementation of the partnership principle in the programming process are presented below.

1. NGO involvement in the Strategic Environmental Assessment of the National Development Plan of the Czech Republic¹¹

Introduction

The Strategic Environmental Assessment (SEA) of the draft National Development Plan of the Czech Republic (NDP) for the period 2000 – 2006 was undertaken between July 1999 – January 2000. The assessment was organised within the planning process for the future use of EU Structural Funds in the Czech Republic. It was based on the combination of SEA provisions in the Czech law on Environmental Impact Assessment, and on the general guidelines for SEA provided for in programming documents for EU Structural Funds. The assessment incorporated both policy appraisals as well as impact assessment elements. The Regional Environmental Centre

¹¹ Based on a report "Environmental Assessment of the Regional Development Plan of the Czech Republic", written by Jiří Dusík and Simona Šulcová, Regional Environmental Centre for CEE.

(REC¹²) for Central and Eastern Europe in co-operation with the Czech Academy of Science elaborated the SEA documentation.

Description

The elaboration of the NDP attracted considerable interest of NGOs that since late 1998 had been demanding that a thorough SEA of the NDP be undertaken, based on the relevant requirements of the Czech EIA Act as well as requirements for the ex ante evaluation of programming documents for EU Structural Funds. Based on these requests, a formal agreement on the initiation of the SEA for NDP was reached between the Ministry of Environment (MoE) and the Ministry of Regional Development (MoRD). The SEA of the draft NDP was subsequently officially initiated by Czech Government Resolution N^o. 714/1999.

Elaboration of the NDP was co-ordinated by the Ministry of the Regional Development (MoRD) and the National Programming Committee for Economic and Social Cohesion (NPC-ESC). The first draft NDP analysed the key regional development issues in the relevant economic sectors, and outlined key priority measures that could be supported in 2000-2006 within Pre-accession Instruments and, after EU accession, within the EU Structural Funds and the Cohesion Fund.

The goal of the SEA was to suggest environmental modifications to the NDP for the NDP planning teams. The main purpose was, therefore, not only assessment, but also the formulation of suggestions to initiate dialogue between the members of the SEA and NDP planning teams. The MoRD sub-contracted the preparation of the SEA documentation to the local REC country office, which in turn established - in cooperation with the Czech Academy of Sciences - a SEA team to assess the entire NDP. The team consisted of 17 experts - approximately half of the team members were recruited from EIA consultants or environmental

¹² The Regional Environmental Center for Central and Eastern Europe (REC) is a non-partisan, non-advocacy, not-for-profit international organisation with a mission to assist in solving environmental problems in Central and Eastern Europe. The REC was established in 1990 by the United States, the European Commission and Hungary. Recent donors are the EU, governments, as well as other inter-governmental and private institutions.

scientists; the other half of the SEA team was recruited from among environmental NGOs¹³.

Public participation

In order to ensure maximal transparency, in addition to „partnership“ discussions during NDP planning, the SEA team ensured proper publishing of the draft NDP-CR and its open-public commenting. The specific approach employed within the SEA process was agreed by the MoE and MoRD and included notification of the general and concerned public, as well as the gathering of public comments. The general public was notified through national and regional media and the Internet (mainly through the MoRD web site). Environmental NGOs and relevant state authorities were approached as well. The relevant state authorities, besides being notified themselves, were also asked to make the notification documents available to the wider public. Public comments were gathered through submission of written comments (through direct mail, fax and e-mail) and during two public hearings held at the national level. In addition, three public hearing workshops were held at the regional level. The SEA team recorded and considered all the public comments received either in writing or through the public hearings. A report summarizing the SEA team’s responses to public comments was then published on the Internet.

SEA documentation, the overview of public comments, and of the SEA Team’s responses to them were submitted to the MoE. The MoE issued its official SEA Position on the NDP, which generally approved the planning document and outlined a set of measures governing the further development and implementation of the NDP.

Conclusions

The fact that REC as an NGO was recruited to carry out the SEA for the NDP and to develop and organise the process, and the fact that other NGO experts were included on the SEA team, proves that NGOs have the potential to become important partners to state

¹³ Upon retrospective analysis of the quality of individual assessments, it can be concluded that no difference in the quality existed between assessments performed by the “professional” and “NGO-based” experts.

institutions in developing and implementing new practices and policies. It is also important that thanks to the process led by NGO-based experts and assisted by NGOs, it was possible to assure a high level of transparency and public participation in the preparation of SEA and to prepare recommendations for the SEA methodology for regional development policies.

2. NGO involvement in the Strategic Environmental Assessment of the Regional Operational Programme in Hungary

Introduction

With the financial and technical support of the Ministry of Environment (MoE), Regional Environmental Centre (REC)¹⁴ and “VÁTI” Regional Development Directorate¹⁵, and with direct involvement of environmental NGOs, the Strategic Environmental Assessment (SEA) was prepared for the Regional Operational Programme (ROP). The process started at the beginning of 2002. Based on the EU methodology recommendations, national SEA methodology for Hungary was developed during the process.

Description

The SEA was performed by a group of seven independent environmental experts, including several NGO experts, who had won the tender for developing the SEA. The cooperation of the SEA group with the environmental NGOs (ENGOS) was very fruitful. The ENGO working group facilitated by the National Society of Conservationists – FoE Hu and the SEA group frequently met during the assessment process and regularly discussed the working documents. Moreover, the REC created supportive environment for the discussions with the ENGO community.

Although implementation of the SEA of the draft ROP was not an easy task because of the constantly changing ROP priorities and measures during the assessment period and due to many other

¹⁴ See footnote 12.

¹⁵ The main role of the “VÁTI” Directorate is to help the work of the Ministry responsible for Regional Development (Prime Minister’s Office), on all three levels: concept, program, project.

obstacles and problems challenging the SEA group, the SEA finally resulted in introducing more 'environmentally friendly' measures to the ROP.

Conclusions

According to ENGOs more environmentally friendly ROP could have been adopted, however, some less sustainable measures were incorporated to other OPs.

Performing the SEA for ROP enabled development of the national SEA methodology.¹⁶ In this sense, an important advancement following the preparation of the SEA was including ENGOs into the social dialogue during discussions about the legal framework of the national SEA. Another important result of the SEA of ROP was that ENGOs played an important role in the process and helped to create a foundation for a broad dialogue with different social partners.

Despite being an analytical tool at the first place, the SEA also facilitates exchanging opinions among institutions, experts, social groups and NGOs. Since international SEA directives offer only a general framework, national decision makers decide what will be the real impact and strength of the national SEA regulations. Therefore, the presence of ENGOs in the discussion on the national SEA is of crucial importance.

3. NGOs commented the Rural Development Plan in Slovakia

Introduction

This case study presents involvement of NGOs in the Rural Development Plan (RDP) preparation process, the strategic

¹⁶ The principle of national SEA methodology for Hungary is that goals, priorities and SWOT analysis of the ROP are assessed against sustainable indicators and criteria developed by the SEA team, while ROP measures and submeasures are compared with official country strategies and environmental policy goals (Note: an English description of the methodology should be published soon).

document for implementing the SAPARD¹⁷ programme in Slovakia. The RDP proposal was submitted to the EC in December 1999. The EC returned the RDP several times for revision and the final document was approved at the end of 2000. NGOs continuously provided comments on all of the draft versions of the RDP. Despite the fact that no official public consultation was organised, experts from different organisations were able to comment and to submit alternative proposals. NGO representatives from the Rural Parliament and DAPHNE¹⁸ discussed comments to each version at numerous meetings and discussions with Ministry of Agriculture (MoA) officials.

Description

Environmental NGOs (ENGOs) objected against possible impacts of the programme SAPARD on the environment and biodiversity, mainly in the forestry, water services and agriculture sectors in disadvantaged mountain areas. Substantive comments also focused on rural development, strategic environmental assessment and public participation on the preparation and implementation of the programme. After the NGOs submitted a critical statement to the EC representatives at the DG Environment and the DG Agriculture (DG Agri) and after several discussions on substantive issues with EC officials, national policy-makers started to listen to NGOs more carefully and recognised them as partners for discussion.

Thus, thanks to the supportive approach of the DG Agri and DG Environment, and consequently, also from the side of the MoA – Regional Development Department, NGOs finally succeeded in enforcing substantial changes in the area of water services and agricultural practices aimed at the protection of environment (an agri-environmental programme). Comments on the participation of subjects other than from agriculture on the implementation of the

¹⁷ The Special Assistance Programme for Agriculture and Rural Development of the EU was realized through the pre-accession fund SAPARD. Preparation and implementation of the programme was under the authority of the Ministry of Agriculture of the Slovak republic. The Rural Development Plan, a strategic programming document for SAPARD defined investments to agriculture, forestry and rural development.

¹⁸ The Rural Parliament is a national umbrella NGO connecting regional and rural NGOs dealing with rural development issues. DAPHNE (Institute of Applied Ecology) is an environmental NGO working on preservation of biodiversity.

programme and on improvement of the environmental aspects of the programme, were partially incorporated.

Conclusions

Intensive negotiations between NGOs and the MoA representatives resulted in very close cooperation, and, even more, in substantial NGO involvement on the preparation of the RDP. Experts from the DAPHNE organisation were also regularly invited to official negotiations between the MoA and the DG-AGRI to defend national interests in the field of agri-environmental policy and its implementation in Slovakia. Another positive step towards transparency and active NGO involvement in the SAPARD programme, was nomination of an additional NGO representative (one NGO representative was nominated by the Gremium of the Third Sector¹⁹) to the SAPARD Monitoring Committee, who was an NGO expert from the DAPHNE organisation. The nomination was based on the expertise of the candidate and his/her previous experience, activities and involvement on the preparation of the RDP.

4. Environmental NGO cooperation on the preparation of the Single Programming Document in Estonia

Introduction

Estonia completed its first National Development Plan (NDP) in September 1999 with almost no public participation or NGO involvement. The second plan, the Single Programming Document - SPD for 2004-2006, had a better organised process with NGOs participating as social partners. National-level environmental NGOs organised under the umbrella of the Council of Environmental NGOs. Numerous joint analyses and comments were provided under the leadership of the Estonian Green Movement - both to the SPD analytical part as well as the programme complement. At certain stages, 1/3 of ENGO comments were accepted. A Strategic Environmental Assessment (SEA) was also carried out; ENGOs participated in the SEA preparation stage and issued joint comments.

¹⁹ An umbrella NGO platform serving as an interface between NGOs and government. In the second half of 1990s, it gradually transformed into a formal structure not representing the whole NGO community.

Description

In the fall of 2001, the Ministry of Finance began preparations for a new Single Programming Document (SPD), a key framework document for the utilisation of EU Structural Funds assistance in 2004-2006. Unlike the 1999 NDP programming process, the SPD was designed as more participative. Apart from governmental agencies, about 80 different social partners, such as NGOs, professional unions, local municipalities and universities, were identified to be consulted throughout the SPD process. As far as the environmental sector is concerned, eleven social partners were identified, including several ENGOs such as the Estonian Green Movement (a member of the Friends of the Earth), the Estonian Fund for Nature and the Estonian Ornithological Society.

The SPD's strategic basis constituted the first document to which comments from social partners were requested (in February 2002). Ten ENGOs collaborated on the drafting of the ENGO comments, which were presented on behalf of the umbrella organisation, the Council of Environmental NGOs. ENGO comments dealt with a large number of sectors, including: environment, transport, energy, agriculture, tourism, forestry, food processing, services and human resources. Around twenty five social partners commented on the draft of the SPD strategic basis. Of these, ENGOs were among the very few that commented on nearly all the chapters of the document. One-third of ENGO comments were taken into account and incorporated into the SPD draft. Another positive issue was the fact that a summary of all comments, including the reasons for not incorporating certain comments, was published on the Ministry of Finance's website.

This first stage of SPD programming in Estonia provides an example worth following and propagating in other countries. Unfortunately, although Estonian authorities proved that including social partners in the programming dialogue is possible and worthwhile, they did not manage to follow their own example through to the end of the process.

Indeed, during the summer of 2002, the SPD participative process took a downturn. The priorities for 2004-2006 Structural Funds assistance agreed in the early stage of the SPD programming process were suddenly altered and the entire process started from the beginning. The schedule for the entire programming process was regularly changed, introducing much confusion. ENGOs, however, continued to submit their comments even without being requested to do so. As in the beginning of the process, ENGOs cooperated under the umbrella organisation – the Council of Environmental NGOs – and kept submitting joint comments to influence the process to a greater extent. In the second half of 2002, ENGOs concentrated their attention on the SPD programme complement, which identified thirty one sub-sectors for SF assistance in 2004-2006 and described eligible activities. After pressure by ENGOs, a few vital areas, such as development of renewable energy, made their way onto the list of eligible sub-sectors. Also, due to ENGO pressure, NGOs were listed in many measures as eligible partners for implementation of SF projects.

After pressure from ENGOs and other partners, the Ministry of Finance launched a Strategic Environmental Assessment (SEA) process for the SPD. ENGOs provided comments to the SEA as well. Even though according to the good SEA practice, this assessment should be carried out in parallel to the SPD process, it was decided to finalise the SEA report several months before completing the SPD drafting. After ENGO lobbying (including meetings with the Prime Minister), the SEA process was prolonged until the end of the entire SPD process.

Conclusions

Drafting the SPD for 2004-2006 has been relatively participative. Especially the first part of the process included many characteristics of a proper social dialogue, e.g. thorough analysis of all comments together with justification if they were not included. Social partners were identified and most draft documents were provided on Ministry of Finance's website. Despite the aforementioned problems and changing rules, ENGOs were able to maintain some influence on the process, demonstrating their keen interest in becoming

involved by providing joint analyses and comments and uniting the voices of the ten largest national organisations.

5. Election procedures for NGO representation in the planning teams for preparation of programming documents of the Structural Funds in the Czech Republic

Introduction

NGO representatives were invited to some of the planning teams (PTs) and formal committees²⁰ set up by the managing authorities to take part in the preparation of the operational programmes.²¹ Their nomination was a result of NGO initiatives demanding representation for NGOs. NGO representatives were nominated by networks or associations of NGOs working in the respective areas. As a result, NGO representatives appointed to the PTs were well known and respected by peer NGOs and they also felt responsible to the NGO community for their work.

Description

NGOs working on similar issues have formed various platforms with various levels of coordination and communication²². These platforms selected NGO representatives based on previous involvement in EU fund-related matters, knowledge and experience, as well as reliability. There was no formal selection process.

²⁰ Most of the programming document draft materials were prepared by consulting companies hired by relevant ministries, the PTs which consisted of one or more working groups were in charge of discussing and commenting the draft materials.

²¹ NGO representatives were involved in the working groups (WGs) for preparation of Regional OP (in 6 WGs and also in an official planning committee), later in PTs for preparation of JROP (5 WGs), a representative of a Hunting Association was present at the WG for SOP Agriculture and Rural Development. In the case of SOP Environment (currently part of SOP Infrastructure), WG consisted only of Ministry of Environment staff, but environmental NGOs closely cooperated with the MoE on an informal basis (workshops, roundtables).

²² "Partnerships for sustainable development? Report on the structural funds programming process in Central Europe. (February 2004); Centre for Community Organizing (Czech Republic); National Society of Conservationists (Hungary); Green Liberty (Latvia); European Centre of Sustainable Development (Poland); Centre for Environmental Public Advocacy (Slovakia); Milieukontakt Oost Europea (Netherlands).

For example, in the case of the Joint Regional Operational Programme (JROP), the independent platform NGOs & Regional Development – founded and coordinated by the Centre for Community Organising, a national NGO working on regional development issues – nominated NGO participants. For preparation of the JROP, five working groups were established and NGO representatives participated in each of the working groups.

The platform ‘NGOs & Regional Development’ held regular meetings during which the NGO members of the WGs briefed participants on the results of their work and together with NGOs discussed various strategic issues and positions. Information was spread and issues were also discussed at an open NGO e-mail conference.

Importantly, NGOs managed to convince some of the managing authorities to accept NGO representatives on the planning teams (PTs) for preparation of programming documents of the operational programmes. It is also important that after the abolishment of the original Operational Programmes in February 2002, the platform ‘NGOs & Regional Development’ was informed about the preparation of new PTs for JROP programming, since in some countries information about the establishment of such PTs and working groups was not known to the public and NGOs interested in the EU funds from the beginning. NGOs, however, were not always satisfied with the outcomes of their work in the PTs. As they often did not receive documents to be discussed at the meetings early enough, they were unable to consult them with the NGO community. Moreover, the process of preparing the EU programming documents was heavily impacted by constant changes in rules, time schedules and instructions. After the EC commented on the NDP and OPs in February 2002, all OPs had to be redesigned in order to avoid overlap of measures and to avoid being funded from more than one Fund. Therefore, the WG members were given only two weeks to read and comment on the final versions of the programming documents.

Conclusions

Despite numerous failures in the programming process²³, this case also demonstrates important positive aspects. According to NGOs, the biggest achievement of the process was the fact that they gained recognition by the state authorities and became accepted as respected and serious partners. For example, the Managing Authority for the CSF (section of the MoRD) offered to the 'NGOs & Regional Development' platform regular meetings to exchange information, views and experience. Further, NGO representatives in national and regional MCs of the SFs programmes and other relevant committees are invited to the biannual meetings. We can consider it as a beginning of a new culture of decision-making that also involves representatives of civil society as equal partners not only in declarations but also in practice. It is important to notice that achievement of such a recognition requires existence of formal or informal platforms of NGOs cooperating on similar issues and coordinating their efforts and strategies towards common goals.

6. The World Wildlife Fund participated on the Committee for the Design of Content and Procedures for Preparation of the National Development Plan for the period 2007 – 2013 in Greece.

Introduction

The World Wildlife Fund (WWF) was invited to join the Committee mandated to negotiate the content and procedures for preparing the National Development Plan for the 2007-2013 programming period, after they submitted a paper evaluating the performance of previous regional development policies against environmental protection criteria. The WWF managed to enforce incorporation of some

²³ As described in the "*Partnerships for sustainable development?*": By August 2002 the standard mechanisms of programming process had been put in place (incl. minimum levels of communication with the public - via the internet). But by the beginning of September 2002 those standard mechanisms of the programming process came to be ignored due to increasing time pressure on developing the documents, and the lack of consensus on the content of the documents (such as distribution of measures and related competencies). The working groups did not meet for a significant period of time and were replaced by one-to-one negotiations of responsible officials on the most controversial tasks. Within this process there was, of course, no room for broader discussion with other stakeholders.

“green stipulations” to the Committee’s resolution governing preparation of the final document.

Description

Greece is one of the major EU regional policy beneficiaries, absorbing roughly €45 billion in the 2000-2006 programming period; these funds are channelled through 24 operational programmes (13 regional and 11 sectoral). WWF Greece has always tried to exercise active control on EU Funds implementation, through its participation in a large number of relevant monitoring committees (MCs).

In 2003, WWF Greece took a major decision on adopting a more proactive stance towards the SFs and to focus WWF work on the preparations for the next programming period (2007-2013). First of all, WWF drafted a working paper evaluating the performance of regional development policies against the environmental protection criteria. WWF’s aim has been to demonstrate that if proper regional development and environmental protection go hand-in-hand, through proper decision-making, a win-win situation could be achieved.

Following the dissemination of the paper, which was met with broad acceptance, the WWF was invited to join the Committee mandated to negotiate the content and procedures for preparing the National Development Plan for the 2007-2013 programming period. There the WWF focussed on the need for proper and coherent spatial planning (one of the most important problems in Greek environmental policy according to the WWF). The WWF’s views on the need to move away from large infrastructure investments and to focus more , inter alia, on environmental protection, were backed by a large number of other participants, including the representatives of local administrations, environmental authorities and others. This support, combined with the Ministry of Finance’s positive stance, marked a clear success on the issue: the Committee’s resolutions clearly contain references to the need for environmental protection, spatial planning, public participation and endogenously-driven soft development measures.

Conclusions

Given that the Committee's resolutions will govern the preparation of future development plans, it is possible to claim that the WWF clearly proved to be a credible partner capable of providing significant input into the programming process.

In an attempt to codify factors that helped in achieving the positive results, and hence to provide guidance for other similar policy activities, the WWF identified the work at the strategic policy-making level as very effective. It is worth stressing that success was achieved mainly due to the fact that the organisations adopted a pro-active stance and initialised the activities themselves, proving to the authorities that their participation could be of great value and assistance.

7. NGOs involvement in the preparation and ex ante evaluation of the Operational Programme of Thuringia region in Germany for the period 2000-2006.

Introduction

Although initially NGOs had not been involved in Structural Funds (SFs) management in Thuringia, many efforts served to improve the situation considerably and environmental NGOs were provided with an opportunity to prepare an ex ante evaluation of the potential environmental effects of the draft Operational Programme of Thuringia for 2000-2006. This also constituted a very good base for improving the quality of ENGO involvement in the Monitoring Committee work as ENGOs started to be considered as credible partners.

Description

Thuringia, the so called "green heart of Germany", lies in the south-west of the former German Democratic Republic. As one of the five East German States, it is recognized by the EU as an "Objective 1 Region".

At the beginning of the first SFs funding period (1994-1999), the Thuringian Government did not do much to implement the

partnership principle and to involve social partners (also NGOs) in SF management. The European Commission criticised the Thuringian Government as not complying with EU regulations and urged it to involve social partners – including NGOs – in the monitoring process. As a result, an ENGO representative was granted one seat in the Monitoring Committee (MC) for the Operational Programme (OP) Bundesland Thuringia in 1996. The ENGOS were provided the possibility to elect their representative and a person from BUND, one of the largest ENGOS in Germany, was elected and nominated for this position. The NGO representative, however, was not endowed with voting rights, problems arose with a lack of information, late delivery of documents prior to the MC meetings and low NGO capacity to cope with the volume of documents to be commented. In order to enable better cooperation among ENGOS and, consequently, to improve ENGO capacity, the World Wildlife Fund (WWF) organised a few meetings with the ENGO representatives in the MCs in 1999. One important outcome of the meetings was providing the funding for ENGOS to prepare the ex ante evaluation of potential environmental effects of the draft OP for 2000-2006.

The evaluation comprised the entire OP and environmental effects were analysed separately for each fund (ERDF, ESF and EAGGF). Although evaluation was completed at the working document stage, it was taken into account in preparatory sessions of the OP and by the official OP evaluators as well. Although the Thuringian Government itself was a bit critical of the results of evaluation, as at some points they contradicted the official evaluators' stance, individual members of the government paid attention to the results.

Moreover, the ex ante evaluation the ENGOS prepared contributed to the improvement of the ENGO representatives' status in the Monitoring Committee. ENGOS were also invited to participate in several working groups (WG) for preparing the draft Thuringian OP for the period of 2000-2006. The ENGO representative in the EAGGF WG was able to enforce some important measures related to the promotion of organic farming, conservation of nature and landscape, protection of animal welfare and pursuit of sustainable

rural development to be implemented in the draft OP.

Conclusions

Thanks to their involvement in the ex ante evaluation of the draft OP, ENGOs were able to increase their recognition and to become members of the working groups for the preparation of the OP. Consequently, the adoption of some of the recommendations of the NGO ex ante evaluation and “greening” the measures on agriculture led to the improvement of the quality of the OP. The proactive ENGO approach helped them increase their capacities, improve their position in future decision-making, as well as initiate a participatory processes and ensure environmental benefits.

3. NGO PARTICIPATION IN THE IMPLEMENTATION OF EU FUNDS

This chapter provides a brief explanation of the implementation process for Structural Funds (SFs), the Cohesion Fund (CF), ISPA and SAPARD. It also indicates the possible involvement of environmental NGOs (ENGOs) in the process, and shows the role to be played by the NGO community. Case studies describing NGO involvement in the implementation of EU Funds follow this discussion.

The implementation process

The EU Funds implementation process differs for the SFs, the CF, ISPA and SAPARD. The programmes financed from the SFs and SAPARD are managed in a decentralised manner and are based on the subsidiarity²⁴ and partnership principles. The CF and ISPA, on the other hand, are managed using a more centralized approach. Differences between these funds are visible in the project selection systems. In case of the CF or ISPA, it is the European Commission that makes the final decision on project funding, whilst for SFs, this decision belongs to the Member States, i.e. the authorities they appoint.

For the CF and ISPA, the beneficiary country is responsible for identifying and pre-selecting the projects that will apply for financing from the funds. Project identification is carried out either during preparation of reference frameworks²⁵ (that may include

²⁴ The subsidiarity principle is intended to ensure that decisions are taken as closely as possible to the citizen and that constant checks are made as to whether action at the Community level is justified in the light of the possibilities available at the national, regional or local level. Specifically, it is the principle whereby the Union does not take action (except in the areas that fall within its exclusive competence) unless it would be more effective than action taken at the national, regional or local level (source: <http://europa.eu.int/scadplus/leg/en/cig/g4000s.htm>).

²⁵ Each member country benefiting from the Cohesion Fund, prepares a document entitled the «reference framework». According to the Commission, the reference framework should include: (1) a definition of long-term objectives, (2) a list of individual projects (project portfolio), (3) the interim objectives to be achieved by 2006, (4) the projects to be implemented to achieve those objectives, (5) for each project, an individual indication of the investment costs and indicative plan of sources of finance - *The Guide to the Cohesion Fund 2000 - 2006*; the European Commission; version 1.0; February 2000.

project portfolio) or projects are selected by beneficiary countries in a different manner (for example, by evaluating them using scoring systems, by special committees responsible for project pre-selection, etc.). Project pre-selection is of crucial importance especially when the number of potential projects eligible to apply to the CF or ISPA is large and available resources limited (meaning that not all projects can receive financing). Moreover, a number of countries have decided not to include the lists of indicative projects in the reference frameworks²⁶, or these lists do not entirely reflect the projects proposed in later stages. Therefore, ensuring an efficient and transparent selection system on the national stage is essential.

As far as SFs and the SAPARD programmes are concerned, after EC approval of the particular operational programmes financed from the SFs or of the SAPARD programme, the practical responsibility for project selection and management of implementation is granted to the Member State (or the candidate country in the case of SAPARD). The EC facilitates and controls only the implementation of the entire operational programmes (i.e., of the programme cycles or programming periods - preparation, implementation, monitoring and evaluation of programmes). In contrast to the CF and ISPA, the final project selection is made by the bodies appointed by the Member State and not by European Commission bodies. Moreover, in case of the SFs and SAPARD, the decision on project selection can be shifted from the central to the regional level of administration. These responsibilities may be shared between different bodies, e.g. expert teams and steering or selection committees, managing authorities or implementing agencies. Similarly to the CF and ISPA, the total amount of financing requested through the submitted project proposals can also be significantly higher than the assistance available. Therefore, ensuring clear and comprehensive project selection systems is as important as in the case of the CF, or even more so, given that the European Commission has no direct involvement.

²⁶ E.g. Czech Republic Strategy of the EU Cohesion Fund - the Environment (2004 - 2006) stipulates that "(...) because of the number of obligations of the Czech Republic and the state of preparation of the projects, it is not possible to include an exact list of specific projects to which the Cohesion Fund will contribute. Consequently, an orientative list of projects is enclosed; however this is neither exhaustive nor binding"; Prague - May 2003; page 4.

The implementation process of the SFs, the CF, ISPA and SAPARD should:

1. ensure that programmes, plans and priorities set up in the planning documents are met (e.g., selecting projects that meet the objectives of the programmes);
2. ensure effective and transparent ways of carrying out the activities provided for in the aforementioned documents (e.g., ensuring efficient and transparent project selection systems);
3. ensure that projects that are proposed for financing conform with EU policies and legislation (e.g., environmental regulations).

NGO participation in implementation

As mentioned above, the EU Funds implementation process usually involves a number of bodies responsible for project appraisal, which have been either specially created for this purposes – e.g., steering committees or special working groups – or which have already dealt with similar issues, for example ministry departments or other administration bodies appointed as implementing agencies²⁷. If social and economic partners are included in any of the bodies responsible for project selection or pre-selection, they are usually placed in steering committees. The main role of NGO representatives in such bodies is to ensure that projects are selected in a transparent manner and, especially in the case of environmental NGOs, that the projects receiving co-financing from public money contribute to meeting sustainable development objectives and comply with national and EU environmental legislation.

Although Article 8 of the Council Regulation 1260/1999 laying down general provisions on Structural Funds states that “Partnership shall cover the preparation, financing, monitoring and evaluation of assistance”, NGOs are often denied full rights to participate in the decision-making on the SF implementation process. Council Regulation 1260/1999 constitutes the primary legal

²⁷For example, in Poland environmental infrastructure projects to be co-financed from the Cohesion Fund are first evaluated by the National Fund for Environmental Protection and Water Management, which is the largest institution in Poland responsible for financing environmental protection and water management infrastructure.

framework also for the pre-accession funds including SAPARD and, therefore, sets out general conditions for the SAPARD programme, including the partnership principle. Implementation of the SAPARD programme, however, lies fully within the competence of implementation agencies known as SAPARD agencies that do not include social partners.

The inclusion of social and economic partners in bodies such as steering committees for the Cohesion Fund and ISPA is not regulated by any provisions, and consequently, left at the discretion of national authorities. This in turn may lead to the exclusion of NGOs from the project selection stage.

In our research, we identified a number of problems that make NGO participation in EU Funds implementation either limited or even non-existent; among these problems are:

- **NGO involvement in the project selection process** – NGOs are often denied membership in bodies responsible for project appraisal and selection;
- **Manner of appointing NGO representatives to advisory bodies** – even if NGOs are invited to such bodies, the authorities often decide by themselves who should be a representative or which NGO or NGO platform should nominate the representative and do not create opportunities for NGOs to nominate their own representatives in an open and democratic selection process;
- **NGO member status** – even if granted the right to participate in, e.g., steering committees, NGOs often have limited status, such as without voting rights. NGO input is not taken into account and public participation is treated as an unnecessary menace or obstacle.
- **Access to information** – information on project selection provided to NGOs and NGO representatives at the steering committees sometimes proves not to be credible or insufficiently detailed and is sent in a very short time prior to steering committee meetings; all of which hinders reasoned decision-making;

- **Non-transparent selection process** – project selection decisions are often politically driven and clear project selection criteria, as well as clear, binding and enforceable regulations are lacking, which proves that public control is essential to the process;
- **NGO capacities** – NGO work on the committees is on a voluntary basis, NGOs often lack sufficient time, personnel and financial resources necessary to process all of the documents needed when making project selection decisions.

On the other hand, we have also identified some good practices implemented in various old and new Member States as well as candidate countries, which deserve further attention and promotion.

The following chapter presents positive case studies on initial NGO experience with the implementation stage of the SFs, the CF, ISPA and SAPARD. These good practices should be propagated in the countries where public participation still needs to be enhanced.

1. Involvement of environmental NGOs in Steering Committees for the Cohesion Fund in Poland

Introduction

Through a democratic election process, Polish environmental NGOs (ENGOS) representatives were appointed to two Cohesion Fund (CF) Steering Committees. The role of the committees was to advise the ministries responsible for the CF on project selection. NGOs could comment directly on the projects proposed for financing from the CF and utilised their expert knowledge to influence project selection criteria, trying to increase transparency and make criteria better correspond to environmental requirements.

Description

The Steering Committee at the Ministry of Environment (MoE) operated between July 2003 and June 2004. It comprised representatives of the MoE (including the Deputy Minister responsible for EU integration), the Ministry of Economy (director of the Cohesion Fund Department), the National Fund for Environmental Protection and Water Management (Vice-president

responsible for Cohesion Fund projects), a representative of Polish regional self-governments, a representative of Polish municipalities, as well as two democratically selected representatives of ENGOs²⁸

The Committee's main task was to provide recommendations to environmental infrastructure projects proposed for co-financing from the CF. The Committee could either accept a particular project, reject it or send it back for further clarification. It is worth noting that not all of the projects the Committee reviewed had all the necessary technical and economic documentation prepared. On the contrary, some of the projects were merely vague concepts with limited, insufficient and frequently contradictory data on expected project outcomes. Out of the approximately 200 projects, 70 obtained positive recommendations. The Committee's decision was not binding, and it was the Minister of Environment who was responsible for making a formal decision on whether a recommended project would qualify for further application stages, i.e. preparation of the application to the European Commission. Nevertheless, the Minister approved most of the projects receiving the Committee's recommendation.

ENGO representatives on the Steering Committee pointed out numerous shortcomings in the project selection system (e.g. lack of clear selection criteria and procedures, overlapping responsibilities of various institutions and contradictory and imprecise information presented to the Committee). They also called for the introduction of a clear and transparent project selection system. A special meeting of the CF Steering Committee was organised in order to discuss possible improvements in the selection process. The ENGO representatives presented analyses prepared by independent experts working in the environmental financing field. The experts analysed the current project selection system and included proposals for improvements. As a result, some changes were introduced to the system. Nevertheless, the project selection system still requires improvement, i.e. establish clear and detailed selection criteria,

²⁸ From the Institute for Sustainable Development and the Institute of Environmental Economics (CEE Bankwatch Poland); a separate case study presented below describes the election procedure in question.

define the responsibilities of various bodies involved in project selection, make the process more transparent to all beneficiaries, so that their applications reflect CF priorities to a greater extent, etc. ENGO representatives also emphasized a need to adopt a more strategic approach to implementing environmental acquis communautaire, arguing that it was necessary to prepare detailed calculations of financial resources needed for implementing EU environmental directives, and to create financial strategies for meeting EU environmental standards. Otherwise, CF resources could be spent on overestimated investments that are not financially and economically efficient.

The information upon which the Committee made decisions on particular projects was frequently incomplete or contradictory. Therefore, it proved necessary to verify the data presented in the project proposal sheets. The NGO representatives undertook different steps in order to verify the data. Not only did they ask the officers responsible for the CF projects for further clarification during the meetings, but also consulted local NGOs on particular projects. Verifying information credibility by consulting local NGOs proved to be of crucial importance, as some of the project proposal sheets presented to the Committee contained information that did not correspond to reality (the physical products were overestimated, the information on technical documentation was misleading, some data had been manipulated, etc.). Needless to say, local NGOs are much more familiar with projects implemented in their regions or, being well acquainted with local conditions, it is usually easier for them to obtain credible information.

Another Steering Committee, which dealt with transportation projects, was set up at the Ministry of Infrastructure (MI) and two democratically elected ENGOs representatives²⁹ served on it. The Committee was cancelled in June 2004, and a new committee was formed in August 2004. This time the MI ignored the democratic

²⁹ From the Polish Green Net (CEE Bankwatch Poland) and the Polish Ecological Club (Friends of the Earth Poland).

election procedure and nominated the NGO representatives itself³⁰. Only one ENGO representative was appointed to the new Committee, which significantly decreased the capacity for active involvement in the Committee's work.

During the initial period of the Committee's operation, ENGO representatives highlighted the need to present environmental impact assessments to the Committee members prior to the meetings and take into account EIA's outcomes when reviewing the projects to be proposed for financing. They also initiated a discussion on project selection criteria and on the division of CF resources between road transportation projects and railway projects. During subsequent meetings, the representatives discussed specific aspects related to financial, technical and environmental issues of the specific projects.

It is worth mentioning that the efficient involvement of ENGO representatives in both Steering Committees was facilitated by regular and mutual communication between the representatives and the ENGO community. The representatives provided the interested NGOs with information on their participation in the Committee, consulted them about potential projects that may have negative environmental impacts, asked for expert opinions, established separate e-mail lists, launched special websites presenting their activities in the Committees and prepared reports after each Committee meeting, etc. These steps made the ENGO representatives' participation in the Committees more open to the public and much more effective.

Conclusions

The fact that ENGOs were invited to consult infrastructure projects proposed for the CF is worth promoting. Authorities recognised ENGOs as partners for discussion. The representatives were not random persons, but democratically chosen experts in their fields.

³⁰ The Committee was cancelled due to the entry into force of the Act on the National Development Plan, which changes the set-up of the committees and the legal basis of their functioning. The NGO representatives in the new Committee were recommended by the Council for Public Benefit Activity and chosen by the Minister of Infrastructure.

This expert knowledge allowed them to advocate effectively for increasing economic efficiency of CF allocation and for respecting environmental standards. In performing their mandate, representatives actively cooperated with other NGOs, thereby obtaining much valuable information. Due to all these factors, the representatives were able to oppose unsustainable projects successfully.

Whilst the Ministry of Environment is more open to cooperation with ENGOs, the Ministry of Infrastructure frequently disregards environmental groups in its discussions on transportation policies and projects. The pattern of good cooperation should be extended and further promoted in all the Ministries and other governmental bodies responsible for EU Funds management.

2. Procedures for electing NGO representatives to steering and monitoring committees for EU funds in Poland

Introduction

In 2003, the Polish Ministry of Environment (MoE), following suggestions from the ENGO community, introduced an open and democratic procedure for appointing NGO representatives to various advisory bodies related to the European Union Funds. Consequently, Polish environmental NGOs (ENGOs) have elected their representatives to the Steering Committee for the Cohesion Fund (CF) at the MoE³¹. The procedure was soon followed by the Ministry of Infrastructure (for the CF Steering Committee dealing with transportation projects) and later by other ministries for Structural Fund committees. Open voting allowed NGOs to decide directly on their representative. The process was fully transparent and democratic.

³¹ The Steering Committee is an advisory body involved in selecting environmental infrastructure projects that are to be proposed for financing from the Cohesion Fund.

Description

Voting for the candidates to the CF Steering Committee at the MoE was organized as follows:

1. Environmental associations and foundations were entitled to take part in the voting (votes for the candidates were sent to the MoE by fax, mail or e-mail);
2. One organization could propose only one candidate;
3. Organization proposing a candidate had to send to the Ministry the candidates' curriculum vitae (which was placed on the Ministry's web page);
4. Each organization could vote for one or two candidates (if it voted for more than two the vote was considered invalid);
5. Two candidates receiving the largest number of votes were appointed to the Steering Committee;
6. If there were more than two candidates with the largest number of votes, the Ministry would organize by-elections among the candidates with the largest number of votes, within one week of announcing the outcome of the election.

It should be noted that the procedure described above was worked out jointly by ENGOs and the MoE. It was also successfully introduced by the Ministry of Infrastructure and Ministry of Agriculture and Rural Development. Environmental NGOs were allowed to appoint two representatives for each CF committee, which made NGO participation more efficient and feasible. Both representatives received voting power, so in fact NGOs had two votes at their disposal in one committee. Moreover, two representatives were more likely to be able to deal successfully with the large quantity of data and information to be analysed prior to each session.

Due to the passing of the Act on NDP, however, both steering committees for the CF were cancelled. Despite the call of Polish ENGOs to maintain democratically elected representatives in the new steering committees, the ministries decided to organize the selection process again. Unfortunately, the voting procedure adopted by the Ministry of Infrastructure was not as transparent and democratic as the previous one. The NGOs were asked to

present their candidates, after that the Council for Public Benefit Activities³² chose from among these candidates the people to be recommended to the Minister of Infrastructure, which made the final decision about the representatives. The MoE did not extend the mandate of the previously elected representatives as well. It declared, however, that it would organize the election process according to the rules applied in the previous elections to the steering committee. Additionally, the MoE opened a call for NGO representatives to the Monitoring Committee for the CF, and the selection of NGO representatives will also be based on open and democratic elections.

Conclusions

The democratic election procedure that allows ENGOs to decide among themselves about their representation is certainly worth promoting. Moreover, inviting ENGOs to take an active part in implementing those EU funds that have significant impact on the environment constitutes an example of good cooperation between governmental authorities and the NGO community. The MoE is not, however, the sole ministry willing to cooperate with ENGOs. The Ministry of Environment, the Ministry of Infrastructure, the Ministry of Agriculture and Rural Development, etc. have also invited ENGOs to cooperate (unfortunately the election procedures have not always been as democratic and transparent as the one described above). It should be borne in mind that those ministries are also responsible for the dispersal of funds that have negative impacts on the environment. Successful cooperation may result in addressing potential problems, lead to higher environmental performance of projects, encourage compliance with environmental policies and legislation and increase the level of acceptance of the projects to be financed.

³² The Council for Public Benefit Activity is a body comprising the central administration, local self-government and NGO representatives and constitutes an advisory body to the Minister responsible for social policy. Some Polish NGOs believe that granting the Council the right to recommend NGO representatives to various committees limits the democratic election procedures.

3. Participation of an environmental NGO representative in the Regional Steering Committee for Regional Development in Lower Silesia, Poland

Introduction

The role of the Regional Steering Committee (RSC) for Regional Development is to provide the Voivodship's Executive Board³³ with opinions and recommendations regarding projects to be co-financed from Structural Funds (SFs). Among the RSC members are three NGO representatives, out of which one represents an environmental NGO community (ENGOS). The participation of an ENGO representative in the RSC for Lower Silesia was considered to be important for ensuring public participation in the SFs management process. The patterns of cooperation between social partners and the administration abound in numerous, positive examples, e.g. access to timely and credible information, openness to the public of RSC's activities and many others.

Description

RSC and the process of selecting RSC members

The RSC gives opinions on projects to be implemented within the framework of the Integrated Operational Programme for Regional Development 2004 – 2006 (IOPRD), which have been previously evaluated by the Panel of Experts. The RSC verifies whether projects are in conformity with the Voivodship's Development Strategy and evaluates their impact on the region's economic situation. NGO representatives are among the social partners participating in the RSC.

The process of selecting the RSC's members was publicly announced and NGOs were asked to propose their candidates to the RSC. The procedure for electing NGO representatives from among the candidates, however, was not specified. The decision that the RSC would include one regional ENGO representative was also informal and the organisations proposing their candidates were uninformed about this decision. All in all, out of twenty six RSC

³³The Voivodship's Executive Board represents regional self-governmental authorities.

members, three are NGO representatives, among whom there is one ENGO representative.

Participation of the ENGO representative in the RSC's activities

The RSC's operation is regulated by the RSC's Rules of Proceeding adopted by the RSC. The ENGO representative is endowed with the same rights as other RSC members. The RSC makes decisions through resolution based on a simple majority in open voting, provided at least half of its members are present. The positive examples of cooperation include:

- information on the RSC meeting proceedings and the necessary documentation are provided on time, i.e. seven business days prior to the session;
- necessary information and documents are also provided in electronic form, which facilitates the consultation of the documentation with experts and other environmental organisations;
- minutes from RSC sessions are very detailed and include almost all the statements made by RSC members; contents of minutes are consulted after a session, prior to approval of the protocol;
- additional necessary information is provided;
- Marshal's Office (speaker of the regional parliament) has also promised to support the ENGO representative in contacting other organisations. To this end, the Office will provide a conference room to organise a meeting with local organisations.

Openness to public and availability of information on the RSC activities

The manner in which the Marshal's Office informs the public about RSC activities and the IOPRD may be used to set an example.

A special website has been created; it is continuously updated and provides all the necessary information on the RSC's composition and Rules of Proceeding, on RSC resolutions and protocols from RSC sessions, on documents, legislation, on a current list of projects that have obtained co-financing, etc.

Cooperation in the SF programming process

Cooperation between the Voivodship's Executive Board and the ENGO community on Structural Funds is much wider than just ENGO representative participation in the RSC. One of the local ENGOs, the Lower Silesian Foundation for Sustainable Development, whose member is the ENGO representative on the RSC, has signed with the Voivodship's Executive Board a Declaration of Cooperation on creating the Voivodship Operational Programme for Regional Development 2007-2013, with a special focus on environmental protection and NGO participation in planning activities implemented together with local administrations; on identifying local environmental conditions; on participation in the activities of working groups established for defining development priorities and areas for utilizing SFs; on establishing and evaluating the system of sustainable development indices; on establishing the institutional set-up for SFs management, etc.

Conclusions

The ENGO representative's participation in the RSC described above may serve as an example of good cooperation between NGOs and local administrations, ensuring public participation in decision-making processes. On the other hand, a certain danger exists related to the fact that some NGOs tend to focus more on the possibilities of obtaining financing, whilst underestimating the role of such organisations as control bodies.

For the future, it is important that the RSC ensures the democratic election of NGO/ENGO representatives, continues to develop an information campaign among NGOs/ENGOS, actively informs the public, ensures that project selection and appraisal criteria are clear and include sustainable development indices and guarantees NGO/ENGO participation in the programming process.

4. NGO influence in the Steering Committee for Structural Funds environmental measures in Estonia

Introduction

In 2003, Estonia approved the Single Programming Document (SPD) establishing a framework for utilizing EU Structural Funds (SFs) from 2004 to 2006. The development of environmental infrastructure was identified as one of the sectors eligible for funding. A steering committee with twelve members for this environmental measure was formed in August 2004 and it included two representatives of environmental NGOs (ENGOS). Although to date only one meeting of the committee has been held, it is evident that ENGO representatives have more influence over decisions than their small share of seats would suggest. A key to this elevated influence has been the fact that ENGOS came well prepared, backed with solid arguments, outspoken and pro-active, while senior officials nominated to committees lacked the time or interest necessary properly to prepare for discussions.

Description

In early 2003, Estonia approved the SPD, thus establishing a framework for the use of EU SFs from 2004 to 2006. For that programming period, the eligible sectors were identified and grouped into four priority areas. One of the four priority areas covers infrastructure and local development with a total budget of 138 million Euro. Along with other measures, environmental infrastructure development belongs to this priority area with a budget of 9.5 million Euro expected from the ERDF.

Throughout the drafting process of the SPD, ENGOS submitted their comments on SPD analytical parts as well as to the SPD's programme complement. Because they were one of the most active social partners, ENGOS were later offered seats in key steering and monitoring committees³⁴.

³⁴ A more detailed description of public participation in the SPD programming process in Estonia is available in the case study: *Environmental NGO cooperation on the preparation of the Single Programming Document in Estonia*.

Even though the support from SFs (ERDF) to the environmental measure is far smaller than the size of the Cohesion Fund grants for environmental investments, it still constitutes an important source of funding. It allows financing of rather small scale local activities in the fields of water, waste, renewable energy and nature conservation. Therefore, it is important for ENGOs to ensure that money for the environmental measure is spent wisely and that the process is transparent and participative. Although national regulations do not directly demand it, a steering committee was formed for the environmental measure by the Ministry of Environment. ENGOs got two out of twelve seats in the steering committee. As far as the process itself is concerned, the identification of the two NGO representatives was not too participative, since the ministry put forward a direct offer to two large organisations, namely, the Estonian Society for Nature Conservation and the Estonian Green Movement-FoE. As the latter belongs to an umbrella group, Council of Environmental NGOs (EKO), it did not accept the personal invitation and organised a selection procedure inside twelve member groups of EKO. Through such a democratic process, an ENGO representative received a strong mandate from the ENGO community and was later also approved as a committee member by the ministry.

Although the steering committee only began its work in September 2004, its first meeting illustrated the potential influence that even a small number of NGO representatives can have. Backed by prior consultation among NGOs, they proposed alternative suggestions to the steering committee's draft documents. Since government officials did not have their own strong agenda to push, most of the NGO proposals were approved. The changes included reallocating 0.5 million EUR in the 3 million Euro budget toward the implementation plan of „environmental infrastructure development” measure for 2004. Changes were made in favour of those environmental sub-measures that have less funding available from other sources of financing: renewable energy and nature conservation. Moreover, ENGO representatives managed to convince other committee members that they should be endowed with the same rights as all the other members.

Conclusions

As the case shows, NGOs are offered to join steering committees, provided they have shown prior strong commitment and knowledge on the topic. Even if the government can try to hand-pick certain people they would prefer, NGOs must and can run a democratic selection process themselves instead. Therefore, the practice of hand-picking NGO delegates should not be tolerated and the concerns should be raised openly. It is worth stressing that even if the NGO representatives have minor share of seats in the committee, they can direct the discussion and achieve their goals. This is, however, possible only when NGOs are well prepared, backed with solid arguments and support of the NGO community, outspoken and pro-active, as senior officials nominated to committees can lack time or interest to prepare for discussions.

5. NGO involvement in the project selection process in Hungary

Introduction

In the Spring of 2004, the Regional Operational Programme (ROP) Managing Authority (MA) asked the National Society of Conservationists - FoE Hu (NSC) to cooperate on the project selection process under the Programme. Although national regulations do not require such cooperation, it was possible due to the acknowledgement of NSC's expertise and the good relationship between the MA and ministerial officials on the one side and the NSC as an NGO on the other side. The participation of NGO experts in the project selection is based on a contract.

Description

The project selection process is decentralised to the regional level; Regional Development Agencies (RDAs) evaluate projects. "Quality control" with respect to areas of eligibility, economic issues, equal opportunity and environmental sustainability takes place at the national level. Under quality control, experts evaluate compliance: whether the project does or does not comply with project selection criteria defined in the programming documents and whether it takes into account some other aspects of sustainability. In order not

to be influenced, during the quality control the experts are not familiar with the scores that the projects received from their regions. According to the agreement, the Project Selection Committee – which makes the final decisions – will refuse the projects upon experts' recommendation, provided the recommendation is based on relevant arguments.

The NSC coordinates the quality control of environmental sustainability. Selection of the NSC for this task was supported by the Ministry of Environment, whose representative is a member of the Project Selection Committee. As a first step, NSC set up a nationwide group of 10 NGO experts from member groups of the NSC. Two hundred projects have been evaluated at the time of this report's writing. Among them, 10 were highly promoted, 19 were totally refused by the experts and 55 were sent back for the completion of documents. In those latter cases, the applicant was asked to assess more deeply the environmental and the environmental sustainability aspects of the project.

The quality control on the national level cannot counteract the negative aspects of the decentralised evaluation system under the RDAs. Regions, in evaluating the projects from their own territories, feel compelled to overrate them and even to promote worse projects.

Due to this experience, NSC has already prepared some feedback. The environmental NGO representative in the Monitoring Committee of ROP and the evaluators provided some recommendations on the environmental aspects of the Programme and these recommendations (criteria) are to be built into the call for proposals.

Conclusions

participation in project appraisal constitutes an important tool for ENGOs to stop projects with negative environmental impact. It is crucial that the ROP MA and the Ministry of Environment entrusted this responsible task for an ENGO. The assessment methods in OPs vary. In the other OPs, environmental NGOs are not involved at this

depth in the project evaluation and selection processes. Therefore, involvement of environmental NGOs in ROP project selection is a very important example for other programmes where projects with considerable environmental and sustainable impacts are to be supported. This type of involvement is worth promoting as a solution for future participation of NGO experts in ROP project selection.

4. NGO PARTICIPATION IN THE MONITORING OF EU FUNDS

This chapter describes the monitoring process for the Structural Funds, the Cohesion Fund, ISPA and SAPARD. It provides reasons why it is important that environmental and social NGOs, as well as NGOs focused on regional or rural development participate in the monitoring of EU funds and identifies specific problems impeding efficient fulfilment of their role in the monitoring. Similarly to the chapters on NGO involvement in EU funds programming and implementation, introductory notes precede case studies of positive examples reported from various new Member States and candidate countries.

The monitoring process

Monitoring Committees (MC), especially established for this purpose, perform the monitoring processes. Unlike other advisory bodies for the EU Funds (e.g., working groups, steering committees) the MCs are explicitly required by EU regulations establishing specific Funds³⁵, which also define their general responsibilities and composition. MCs can monitor either the implementation of programming documents or of particular projects (e.g., ISPA or Cohesion Fund MCs).

As regards Structural Funds and SAPARD, the MCs are established for each Community Support Framework, Operational Programme, Single Programming Document, or SAPARD Programme. The general role of the MCs for those Funds is to ensure effectiveness and quality of the implementation of assistance. The more specific tasks include³⁶:

³⁵ Council Regulation (EC) No 1260/1999 laying down general provisions on the Structural Funds, Council Regulation (EC) No 1164/94 establishing a Cohesion Fund, Council Regulation (EC) 1267/1999 establishing an instrument for structural policies for pre-accession; Council Regulation (EC) No 1268/1999 on Community support for pre-accession measures for agriculture and rural development in the applicant countries in Central and Eastern Europe in the pre-accession period.

³⁶ Based on Article 35 of the Council Regulation (EC) No 1260/1999.

- confirming and adjusting programme complements;
- considering and approving project selection criteria;
- systematically reviewing the progress in achieving specific objectives of the assistance;
- considering and approving annual and final implementation reports;
- considering and approving any proposal to amend the Commission's decision on the contribution of Funds;
- proposing to the Managing Authorities (MA) any necessary adjustments of the assistance aimed at increasing the possibilities of achieving the assistance objectives.

With regard to the Cohesion Fund and ISPA, the MCs' responsibilities, as described in the relevant regulations, focus on monitoring the implementation of particular projects financed from the Funds. Project monitoring should be based on physical and financial indicators, relating to the specific character of a particular project and its objective. MC recommendations and comments may be directed to the European Commission, calling for adjustment of the amounts of granted assistance and changing the conditions on which it has been granted.

Beneficiary countries establish the MCs and are in charge of appointing its members. MCs include representatives of the authorities directly responsible for managing EU Funds (the ministries, Managing Authorities). The regulations also provide places for representatives of the European Commission and the European Investment Bank. It is worth noting that Regulation 1260/99/EC states that the partnership principle shall cover not only preparation of structural assistance but also monitoring and evaluation. Therefore, inclusion of social and economic partners (including NGOs) in MCs results directly from this Regulation. This is not the case for the Cohesion Fund and ISPA, where no provisions oblige the authorities to include social and economic partners in the MCs. Nevertheless, some countries decided to promote the partnership principle and invited NGO representatives to MCs for the CF and ISPA.

NGO participation in monitoring

According to the Article 8 of the 1260/1999/EC, “Partnership shall cover the preparation, financing, monitoring and evaluation of assistance”. Existing national rules and regulations, however, in many cases do not secure binding and enforceable mechanisms of implementing the EC Directives: this also applies to the aforementioned provision. Consequently, NGOs were often unable to influence the preparation and financing stages of EU assistance in a desirable direction. Therefore, also for these reasons, it is important that NGOs have their representatives in the MCs, in order to be able to monitor and enforce compliance of assistance from the EU funds with EU policy recommendations, agreements and directives on sustainable development, environmental sustainability, public participation and transparency.

Since MCs play an important role not only in monitoring the implementation of the Funds but also in programming of the SFs (approve or adjust programme complements, consider and approve criteria for selecting the operations financed under each measure and approve or adjust indicative lists of eligible activities under each measure), NGO members of the MCs can attempt to utilise the opportunity to affect the use of public finances toward a more sustainable direction. It is important that the NGO representatives have a real influence on the decision-making in the MCs regarding environmental and sustainability aspects.

As ISPA fund experience shows, the monitoring committees have often focused their work on the control of financial progress of the projects, whilst omitting control of project environmental performance (e.g., compliance with the EU and national environmental legislation and standards). Therefore, in order to guarantee stronger compliance with EU environmental legislation, the monitoring process should be extended to environmental performance monitoring.

NGOs with representatives in different MCs for EU funds usually face various problems related to their participation and to the work

of MCs. Positive approaches in different countries, however, also exist and deserve our attention as they may serve as good practices for the future programming period.

The most important problems related to NGO participation in EU Funds monitoring include:

- **The role and influence of NGOs in the Monitoring Committees:** citizens' NGOs usually have only one or two seats in the MCs and, therefore, it is impossible for them to outvote the majority of governmental officials. In some committees, NGOs do not even enjoy full member status, and therefore do not have access to relevant documents or cannot vote;
- **NGO membership in the MCs:** NGOs have representatives in most of the MCs for SFs and SAPARD. In some cases, a problem exists with the definition of social partners and state authorities deny NGOs a seat in the MC based on the argument that more relevant social partners were included, such as association of banks or association of villages. Only in several new Member States do NGOs have representatives in the MCs for the Cohesion Fund and ISPA;
- **Operation of the MCs:** problems may arise with full and timely access to documents to be discussed at the MCs, lack of explanatory documents and other material necessary to the proper understanding of the context and the situation;
- **Transparency of MC work:** the relevant documents related to the work of the MCs are often not made available to the public;
- **NGO capacities for work at the MCs:** NGOs do not have sufficient time and capacity to work at the MCs; they are not reimbursed for expenses related to their work at the MCs and often lack financial resources themselves. In contrast to the state

authorities, no technical assistance from EU funds is available to NGOs with representatives in the various committees and working groups for EU funds;

The following cases explore positive examples of different approaches and mechanisms applied by the NGO communities in several countries. They also describe how the aforementioned problems have been positively addressed in different countries.

1. NGO involvement in the Monitoring Committee of the Sectoral Operational Programme for Agriculture and Rural Development in Slovakia

Introduction

A representative of an NGO focused on regional development (RDNGO) was appointed to the Monitoring Committee (MC) of the Sectoral Operational Programme of Agriculture and Rural Development (SOP ARD) based on a nomination by the Gremium of the Third Sector³⁷, since no open election and selection process for NGO representatives in the MCs of the Operational Programmes existed in Slovakia. Nevertheless, as the nomination was based on reputation, previous experience and activities of the selected person, NGOs active in the field welcomed the choice and recognized the RDNGO representative in the MC. The experience of the RDNGO member from the first two meetings of the MC is described and discussed in the case study.

Description

At the time of this report's completion, two meetings of the MC had taken place. At the introductory meeting, members of the MC received draft statutes and the draft programme complement. At the second meeting, the statutes and the programme complement were discussed and approved. The proposals of NGOs on changes to the

³⁷ An umbrella platform of NGOs that is considered by the government to be representative of the NGO community. As such, the G3S is asked by governmental institutions to nominate NGO candidates to various committees. The problem lies in the fact that currently the G3S is only a formal and not operational structure and no communication exists between it and other NGOs. It is even difficult for governmental employees contact the G3S offices (personal communication of a ministerial employee).

statutes and to the increase of transparency of the MC work³⁸ were easily accepted and adopted by the MC. It proved to be much more difficult to enforce changes in the content of the programme complement. For example, the RDNGO representative's proposals on a specific evaluation criteria for project selection were not adopted due to the negative attitude of the majority of governmental officials in the MC. Still, NGOs managed to pass an important decision that for the next meeting both sides would prepare and submit quantified arguments supporting their proposals for the criteria. Based on the arguments, the controversial issues would be discussed and voted on again at the next meeting.

Conclusions

The RDNGO representative in the MC of the SOP ARD has had good experience with acceptance of her proposals by other non-governmental members of the MC³⁹. According to the RDNGO representative, the rate of acceptance of her comments by the MC depended to a large extent on two important factors – the strength and relevance of arguments and the personal attitude of the chairman of the MC. In case of the MC of SOP ARD, the chairman (usually the head of the Managing Authority for the Operational Programme, i.e., a government official) appreciated the contribution of the NGOs in the MC and did not a priori assume a negative stance to their proposals. This more positive attitude is to a large extent an outcome of the previous involvement of environmental and other NGOs in the preparation of the draft SAPARD programme and of the SOP ARD, as well as of their work in the MC for SAPARD. The RDNGO representative has achieved two important results after the two meetings of the MC: 1) NGO comments on the statutes and MC work were accepted by the MC; 2) an agreement was reached that based on the quantified expert evaluations and analyses prepared both by the MA and by the

³⁸ The minutes from the MC meetings will be placed on the governmental website, all information will be sent not only to members of the MC but also to the alternate members, relevant information from the MC is also to be sent to an umbrella NGO working on rural development (the Rural Parliament).

³⁹ Representatives of other non-governmental organisations, such as the Union of the Owners of Non-State Forests, the Slovak Chamber of Food and Agriculture and the Union of Cities and Villages of Slovakia.

NGOs, discussion on the project selection criteria would continue and possible changes approved would be adopted as an amendment to the programme complement.

2. Environmental NGO involvement in developing one of the solid waste management projects under the ISPA Fund in Lithuania

Introduction

Environmental NGO participation in the Monitoring Committee for one of ISPA funded solid waste management projects in Lithuania resulted in making the investment more environmentally friendly and increasing the transparency of the project cycle. The NGO was able to provide professional expertise on solid waste management issues as well as assistance to the communities concerned when an Environmental Impact Assessment was being conducted.

Description

The Lithuanian Environmental Strategy and Action Plan provides for the establishment of between ten and twelve new modern regional landfills, which would comply with environmental protection standards and EU requirements. The main financial sources for the implementation of this Plan include EU pre-accession aid from the ISPA Fund. One of the planned landfills was to serve the inhabitants of Vilnius and its neighbouring municipalities. The project was prepared, approved and submitted to ISPA in June 2002.

The Lithuanian Green Movement (LGM), together with other NGOs, was invited to join this project from an early stage of preparation and discussions. The LGM applied for observer status on the Project Monitoring Committee and was accepted. The group's main focus was public participation during the Environmental Impact Assessment of the landfill site selection and means of solid waste management.

The Lithuanian Green Movement objected to incineration as the most expensive and non-sustainable means of waste management. The project preparation team did a careful analysis of least-cost

options of various waste management options and proved that waste incineration would be the most expensive option.

The EIA procedure for the final selection of a landfill site was another contentious issue. Two final sites were selected: an abandoned gravel pit in Kazokiskes, part of which is currently the Elektrenai municipality's solid waste dumping site and a 'greenfield' site in Sirvintai municipality. The analyses conducted proved that both places had the same useful lifespan (approximately 20 years), however, the Sirvintai site required higher investment costs. From an environmental point of view, Kazokiskes was preferable because of its already devastated industrial nature. Further, no public protests arose regarding the Kazokiskes site. The Sirvintai site, on the other hand, would devastate a natural place; large, local protests ensued by NGOs against Sirvintai due to the expected negative environmental and social impacts. The project preparation team conducted proper EIA procedures and public involvement into the decision-making for both sites.

The Lithuanian Green Movement took part in all public hearings for the EIA report and consulted local people and NGOs on their rights and on EIA procedures. The LGM carefully analysed the advantages and disadvantages of both sites and presented its official position to the Project Monitoring Committee. The municipalities concerned, the Vilnius regional administration and the Ministry of Environment made the final decision on the site selection. All aspects were taken into consideration. The position of the LGM and negative public opinion surrounding the Sirvintai site were important factors influencing the final decision in favour of the Kazokiskes site.

Conclusions

This was the first ISPA project in Lithuania in which an NGO sat on a project monitoring committee. A common occurrence in new Member States is that officially public participation is encouraged, but informally, officials try to avoid additional trouble such as public participation. This case clearly demonstrates that NGOs can provide valuable input into the project preparation stage and increase project transparency.

The Lithuanian Green Movement participated in the EIA procedure concerning site selection for the landfill and expressed concerns about methods of solid waste management. Environmental NGOs can draw one important lesson from this case: meaningful involvement in such projects requires many professional skills and specific knowledge of various aspects of project preparation (detailed understanding of environmental technologies, calculation of investments and analysis of least cost solutions, etc.). Broader NGO involvement is required as it can contribute to public participation and decision-making, the sharing of information about the project among colleagues and the public and adding to the general transparency of the project cycle.

3. Election procedures for environmental NGO representation in the SAPARD monitoring committee in Bulgaria

Introduction

Bulgarian environmental NGOs have representatives in the SAPARD Monitoring Committee (MC) and in the working groups on the particular measures of the SAPARD programme, as well. NGOs also have representatives in the working groups on the measures, which are not yet operational (i.e., authorized by the EC and/or by the SAPARD Agency in Bulgaria). Bulgarian environmental NGOs have approved a procedure for appointing their representatives in different committees and councils on the national level.

Since environmental NGO representatives appointed to the SAPARD MC were selected in a democratic and open selection process, they are well known and respected by NGOs and are also held accountable for their work to the NGO community.

Description

The environmental NGO community in Bulgaria seems to be one of the most developed, active and organised among the NGOs in Bulgaria. As such, it also has managed to be well recognised and respected by the government. The nomination process of NGO

representatives to the MCs was agreed on the meeting conveyed by the National Conference of Environmental NGOs in Bulgaria in 2002 and by an informal NGO Internet conference „Bluelink“. A secretariat established by environmental NGOs managed the procedure for nomination and election of environmental NGO representatives. It was agreed that a broad public and transparent nomination process would be carried out and that its results would be respected by public authorities. The Bulgarian public authorities (ministries and respective Managing Authorities) agreed to accept a uniform nomination process of NGO representatives to the respective MCs and on reserving at least one place in each MC for an environmental NGO representative.

Conclusions

As a result of the process, Bulgarian environmental NGOs have representatives in the SAPARD Monitoring Committee - 1 person in the MC and 8 people in the working groups⁴⁰ of the MC on the measures implemented currently.

Unfortunately, the wider circle of environmental groups is not really interested in sustainable rural development and, therefore no feedback comes to the NGO representatives in the MC on their reports about the work of the MC. Therefore, urgent steps should be undertaken in order to activate the NGO community in this respect, e.g. information campaigns among NGOs, developing communication channels, etc.

4. Access of NGO representatives on the ISPA monitoring committee to the documents related to ISPA projects in Bulgaria

Introduction

Since 2001, a representative of the Environmental Association (EA) “Za Zemiata” (For the Earth - CEE Bankwatch group in Bulgaria) has been a member of two separate ISPA Monitoring Committees.

⁴⁰ Working groups for each measure prepare proposals for the MC on changes and improvements within the measures. MC can approve or reject the proposals.

The first of the committees has monitored transport infrastructure projects while the second has dealt with environmental projects. One of the preconditions for a successful and efficient monitoring process is access to documents on the projects subject to monitoring (e.g., project application forms, feasibility studies). Za Zemata has requested such documents from the Ministry of Environment and Ministry of Transport in order to be able to perform its monitoring functions. The Ministry of Environment has agreed to provide most of the requested documentation. This can be considered a good practice to follow. In contrast, the Ministry of Transport has refused to provide documents, citing confidentiality.

Description

The ISPA Monitoring Committee (MC)⁴¹ is reviewing the progress in the implementation of the already approved ISPA projects. Prior to each MC meeting, the MC members receive Monitoring Sheets for all ISPA projects. The Monitoring Sheets prepared by the ISPA Implementing Agencies (IAs) present a brief report on conducted tender procedures and on compliance with the conditions in the Financial Memorandum. In many cases, however, members of the MC require additional information in order to be able to understand properly the information presented in the Monitoring Sheets. According to the statutes of the ISPA Monitoring Committee, the IA should assist members of the Committee in their work, including provision of needed documents.

Since the beginning of 2004, EA Za Zemiata, as a member of the ISPA Monitoring Committee in Bulgaria, submitted a number of requests for information to the ISPA IAs, such as the Ministry of Environment and Water (MoEW), Executive Roads Agency, the Ministry of Transport and to the ISPA Coordination Unit in the Ministry of Finance (MoF). For several projects⁴², Za Zemiata asked to receive copies of the ISPA application forms, feasibility studies

⁴¹ Monitoring Committee meetings are held twice a year. There is one Monitoring Committee for projects funded from the ISPA programme on the environment and one MC for projects funded from ISPA programme on transport. Za Zemiata has a representative in both committees.

⁴² For the four projects that received an ISPA grant and one applicant project: Ljuljin Motorway, Regional Landfill in Ruse, the Second Bridge on Danube and the National Centre for Hazardous Waste.

and financial analyses. The project application form contains information on implementation phases, information about project compliance with EU legislation and objectives and about the project itself. Together with the feasibility study, the application form provides crucial initial information for the affected public. It has to be stressed that the information requested is prepared using EU public funds or the state budget and is a subject to disclosure according to the Bulgarian Access to Public Information Legislation. To be able to compare the responses from the different IAs, an identical request for information was submitted to all the IAs.

The MoEW responded on time⁴³ on all the requests and granted full access to the requested information (the feasibility study, the conceptual design and a copy of the application form for an approved project were provided to the NGOs). In addition to hard copies of the documents, MoEW also provided electronic copies. Other IAs, however, did not treat the NGO requests for information in the same manner and refused to disclose the documents.⁴⁴ *Za Zemiata* presented the outcomes of its investigation on the possibilities to obtain project related documents to the 7th ISPA Monitoring Committee meeting in May 2004. The EC representatives at the meeting expressed their opinion that the

⁴³ Responses to a request for information should arrive within 14 days according to Bulgarian law.

⁴⁴ *Feasibility study report*: (1) Ministry of Environment released the feasibility study together with the conceptual design. The release came before the selection of the project contractor. (2) The Ministry of Transport considered the report confidential as "it is currently part of the tender dossier"; currently, there is an ongoing tender. (3) The Executive Roads Agency replied that "the information requested concerns the rights and obligations part of a contract that includes an obligation to prepare a feasibility study, but also an obligation for confidentiality." "The contract and the documents produced under the contract implementation constitute a commercial secret..."

Application form: (1) The Ministry of the Environment released the application form for an approved project by providing a copy. (2) The Executive Roads Agency granted access only to review the copy of the document in the IA's headquarters. The IA did not allow *Za Zemiata* to obtain a hard copy of the feasibility study. (3) The Ministry of Finance denied access to the document, explaining that the application form was reflected in the Financial Memorandum between Bulgaria and EC. The Financial Memorandum is available on the Internet, yet, it hardly could be considered representative of the application form's content. (4) The Ministry of Transport denied access, contending that the project is still under application for a ISPA grant. Additionally, it pointed out that after approval, the application form would be reflected in the Financial Memorandum. Consequently, one can expect that the application form would not be made publicly available even after project approval (applying an approach similar to the Ministry of Finance's).

application form and feasibility study were public documents and public access to them should not be denied.

Conclusion

This case indicates that not all the authorities responsible for monitoring the ISPA fund in Bulgaria treat NGO partners in the same manner. The Ministry of the Environment has positively responded to the requests for additional documentation that would allow NGO representatives to verify information on ISPA-financed projects, which should be considered as a good practice to follow. In contrast, the Ministry of Transportation has refused access to project documentation and therefore NGOs have had limited opportunities to evaluate effectively the projects subject to monitoring. The Ministry of the Environment has made the first positive step in treating NGOs as partners, while the Ministry of Transportation still needs to open itself to cooperation with social partners.

5. Election procedures for NGO representation in the monitoring committees of the structural funds in the Czech Republic

Introduction

NGOs are now represented on each of the monitoring committees (MCs) of the structural funds (SFs) in the Czech Republic and in the MC for the Cohesion Fund (CF). NGO representatives in some of the MCs of the SFs and the CF were selected through an open competition drawn up by the European Union Committee of the Government Council for Non-State, Non-Profit Organizations (GCNPO). At the same time, environmental NGOs also proposed their candidates directly to the ministries responsible for management of operational programmes through their platform organized by the Green Circle Association. Therefore, in the case of the Ministry of Environment and the Ministry of Regional Development, the GCNPO had only to confirm nominations of environmental NGO representatives in the MCs or their working groups. As a result, the NGO representatives appointed to the MCs are well known and respected by NGOs and are accountable to the NGO community.

Description

The NGO community in the Czech Republic is very well developed, active and organised. As such, it also enjoys recognition and respect from the government. The nomination process of NGO representatives to the MCs was agreed at the meeting convened under the informal NGO platform „NGOs and regional development” with the invited representatives of respective ministries, which are in charge of particular operational programmes. It was agreed that a broad public and transparent nomination process would be carried out and that public authorities would respect its results. The Czech public authorities (ministries and respective Managing Authorities involved in implementing the structural funds) agreed to follow a uniform nomination process for NGO representatives to respective MCs. At least one place in each MC was reserved for an NGO representative.

Since the Government Council for Non-State, Non-Profit Organizations, which operates from the office of the deputy prime minister⁴⁵, is the main interface between the NGO community and the government, it was decided that it would carry out the selection process. Half of its membership are state officers and the second half is represented by NGOs. The Council includes a Committee on Cooperation with the European Union (generally known as the European Union Committee) dealing with EU relations and, therefore, also focusing on structural funds. Committee membership consists of government ministries, managing bodies for structural fund programmes, regional authorities and NGOs. Although NGO representatives of the European Union Committee are appointed by the government (i.e., not elected), an effort is underway to involve all significant NGOs from various sectors of society.

The criteria for appointment of NGO representatives on MCs drawn up by the Government Council for Non-State, Non-Profit Organizations included experience and knowledge of the candidate on structural funds, ability to facilitate contacts between civil society

⁴⁵ *The illusion of inclusion: Access by NGOs to the structural funds in the new Member States of eastern and central Europe; Report for the Euro Citizen Action Service.* (July 2004); Brian Harvey Social Research, Dublin.

and public authorities and sufficient capacity of the parent organization to cover the NGO representative's expenses. Moreover, a curriculum vitae of each candidate was taken into consideration. A public call to inform the NGOs was announced mostly through NGO communication channels (NGO websites, email conferences of various NGO networks and platforms) and on the website of the Government Council for Non-State, Non-Profit Organizations, which also distributed the information through its own address lists. No information appeared in the media despite the fact NGOs provided them with information about the public call. NGOs were asked to send nominations based on provided criteria and supported by recommendations demonstrating the candidates possessed the necessary skills and experience. Finally, the European Union Committee of the Council selected the NGO representatives. This was the weakest part in the entire process, because many NGOs expressed doubts as to the legitimacy of the Council, since its membership were not elected and comprised government officials. The Council then nominated NGO representatives to the MCs of the Community Support Framework, of operational programmes and of the Cohesion Fund. Relevant ministries fully respected the Council's nominations.

The elected NGO representatives have had opportunities to share their experience and to consult NGO policy and strategies with the NGO community during the meetings of the „NGOs and regional development“ platform. Just recently, all of them were also appointed to the European Union Committee. In this manner, coordination of approaches and dissemination of models of good practice with respect to NGO participation in MCs is ensured and active and responsible participation of NGO representatives in MCs can be expected.

Conclusions

The selection process described in the case study was discussed and agreed on both by government officials and the NGO community as a most convenient and accessible option then available. The system was not an optimal, however, and, therefore, all interested parties (networks and umbrella organisations of environmental NGOs,

NGOs working on social issues as well as NGOs focusing on regional development) are developing a common NGO nomination method and system of public consultation; this plan should be submitted as a proposal to the European Union Committee of the GCNPO. Strong indications exist, however, that the recently formed government's stance to NGOs will be less open and even the GCNPO does not enjoy strong political support at the moment. Therefore, it is important to stress that the open nomination and selection process applied in this case demonstrated the high interest and capacities of the NGO community to participate in the management of EU funds and on public matters in general.

5. INDEPENDENT NGO MONITORING

Besides NGO involvement in official structures like planning teams for programming, steering committees and monitoring committees, NGOs are also active in independent monitoring and commenting of EU funds operations. They create independent monitoring “watchdog” teams, NGO networks and platforms or working groups cooperating with local and national authorities on various issues related to EU Funds management.

NGO platforms and networks working on similar issues can also promote open and democratic procedures for selecting NGO representatives to serve on planning teams for programming, steering committees and monitoring committees, thus becoming an important interface with governments. In this manner, NGO representatives can consult all the important issues with and be held accountable to the NGO community, as well as present the official requests and positions of the NGO community.

Moreover, NGOs undertake activities aimed at eliminating fraud and corruption practices relating to EU funds management, inter alia by advocating for legislative measures restraining such practices.

1. Systemic response to allegations of nepotism and conflict of interest in Slovakia

Introduction

Flaws in management of the PHARE-funded granting schemes in 2003 led an independent watchdog team⁴⁶ to analyse problems reported by many potential beneficiaries, ranging from NGOs and small businesses to municipalities. In January 2004, the analysis was submitted to the Anti-Corruption Unit of the Office of Government and the Ministry of Justice, which were responsible for fighting corruption in general, but not explicitly in supervising EU funds. The watchdog team initiative described further in the case resulted

⁴⁶ See the case study *Creation of an independent infrastructure to monitor the management of EU funds in Slovakia*.

in the adoption of a governmental resolution requesting the implementation of a set of legal and institutional measures that would eliminate the problems described in the analysis.

Description

The watchdog team called for comprehensive review of all legal regulations and guidelines regulating the access of potential beneficiaries to information on EU funding, project evaluation and selection processes, monitoring and supervision, as well as all measures to ensure transparency and eliminate conflict of interests in these areas. In addition, the unification of practices used by different managing authorities was requested and the team asked for the adoption of clear, strict, binding and enforceable rules to prevent past bad practices.

Surprisingly, in May 2004, the Government's Anti-Corruption Unit prepared a detailed legal survey on the quality of existing legal measures to prevent abuses, irregularities and corruption in the management of EU funds in response to the watchdog initiative. Although a few of the managing authorities seemed reluctant to cooperate, the others, namely the Ministry of Social Affairs and the Ministry of Finance, actively supported this initiative.

The result of the legal survey revealed not only holes in existing legislation and unclear guidelines allowing the arbitrary interpretation of rules but also a lack of understanding of regulations by different authorities. In June, representatives of the watchdog team accepted the invitation of the Anti-Corruption Unit and Minister of Justice to assist in drafting a set of measures for improvement of the existing state of affairs and actively participated in this process. The draft document was then submitted to all managing authorities and implementing agencies for comment. In July, the Minister of Justice submitted to the Government a report on the outputs and recommendations resulting from a survey entitled "Legal Protection from Non-Transparency, Abuses and Conflicts of Interests Related to Decision-Making on EU Funds in Slovakia". The report included a proposal to transpose all proposed measures into the current regulations of all relevant authorities.

On August 18, 2004, the Slovak Government adopted resolution #797 requesting “unification and adjustment of all legal and other regulations of the central state authorities of the Slovak Republic including relevant manuals, handbooks and guidelines as well as other guiding acts according to the (above mentioned) report by October 30”. The Minister of Justice was charged “to create a clear definition of conflict of interests and to define liability of persons involved including definition of sanctions for violations of principles on conflicts of interest” by the end of August. All tasks from the report became obligatory for all managing authorities and must be implemented by specific deadlines.

Conclusions

The first result has already emerged. On September 9, the Minister of Justice announced the „Rule on Banning Conflicts of Interest“ (see Annex to the case below), which is generally seen as a very progressive achievement. The other actions are to follow.

The adoption of the resolution is a good news for Slovakia and must be considered a good practice worth duplication in other countries with weak legislation. For years, public officials on various levels took advantage of missing or vague rules which gave them room for arbitrary decisions. Obviously, they usually refused to listen to NGOs demanding a change of the rules. The August 18 resolution may end this period and is one of the first resolutions on the management of public funds in Slovakia that establishes responsibilities for public officials from the public interest – not state administration’s – perspective.

No one could have expected that the state administration would initiate a process that would culminate in limitations of its own powers. Further, few anticipate that the resolution itself will halt bad practices, if not implemented properly and if such implementation is not seriously monitored and supervised. For this reason, the NGO watchdog team not only had to initiate the process, but must also ensure that the adopted measures are respected.

Annex to the case:

The rule on banning conflicts of interest

Art. I

As part of all decision-making processes connected to the redistribution of EU Structural Funds and the Cohesion Fund, the prevention of conflicts of public and private interest (hereinafter „conflicts of interest“) of all interested persons on the side of applicants for state aid, as well as on the side of the persons representing decision-making and evaluating bodies (hereinafter „stakeholders“ – their specification is included in Article II) must be addressed. Conflicts of interest are defined as a situation in which due to personal or other similar relationships of stakeholders, an interest on the objective and impartial administration of public functions related to the preparation and implementation of calls for proposals under programmes funded from the EU funds as well as evaluation and selection of the projects submitted is disrupted or threatened. Personal or other similar relationships are considered to be: family relations, emotional proximity, political proximity and economic or any other interests not related to the public interest, shared with the applicant for the non-recourse financial support from the SFs, CF, state budget or other public sources.

All relevant agreements on the provision of state aid must contain a provision on the abandonment of the contract and return of award, in cases in which the responsible authority investigating a claim or other similar petition comes to the conclusion that the rule on banning conflicts of interest has been violated.

Each stakeholder on the side of the evaluating or decision-making authority is obliged to report on the conflict of interest to the relevant body, as soon as it comes to his/her attention and s/he cannot make decisions nor influence the process in any way with respect to the further process connected to the conflict of interest. If employees are involved, the violation of this rule shall be treated according to the relevant legal regulations as a breach of discipline or infraction on work discipline. With respect to persons in relations

other than employment, the relevant contracts (e.g., work contracts) must state that violation of the rule on banning conflicts of interest constitutes a reason for unilateral withdrawal from contractual relations.

Art. II

The rule on banning conflicts of interest is binding and refers to the following areas and stakeholders. Definition of these areas and stakeholders does not affect the right of Managing Authorities (MA) and Mediation Organs under the MA to adopt stronger rules to enforce the rule on banning conflicts of interest.

Preparation and submission of projects

- Persons entrusted by the MAs to provide information for applicants of proposals (at the level of the central bodies of the state administration and other public institutions, e.g. the Regional Self-Government) must not be involved in the preparation, submission or implementation of projects;
- Persons participating in the preparation of the calls for proposals, granting schemes or state aid schemes (at the level of the central bodies of the state administration and other public institutions, e.g., the Regional Self-Government) must not be involved in the preparation, submission or implementation of projects within the given call for proposals, granting schemes or state aid schemes;
- Persons participating in the preparation and implementation of the projects of the state administration (at the level of the central bodies of the state administration and other public institutions, e.g., the Regional Self-Government) must not be involved in the evaluation and selection of projects within the given call for proposals, granting schemes or state aid schemes.

Assessment of administrative compliance

- Persons entrusted by the MAs to conduct an assessment of administrative compliance must not be involved in the preparation, submission or implementation of projects.

Evaluation and selection of the projects

- Persons entrusted by the MAs to evaluate the projects must not be involved in the preparation, monitoring or implementation of the projects within the given call for proposals, granting schemes or state aid schemes;
- External evaluators must not be involved in the preparation, monitoring or implementation of the projects within the given call for proposals, granting schemes or state aid schemes;
- Members of selection committees must not be involved in the preparation, monitoring or implementation of the projects within the given call for proposals, granting schemes or state aid schemes;
- Any other persons participating in the evaluation and selection of the projects or in supervision of these processes must not be involved in the preparation, monitoring or implementation of the projects within the given call for proposals, granting schemes or state aid schemes.

2. Creation of an independent infrastructure to monitor the management of EU funds in Slovakia

Introduction

Since the 2001 corruption scandal in Slovakia⁴⁷, the Centre for Environmental Public Advocacy (CEPA)⁴⁸ has been closely monitoring practices of public institutions that were responsible for the management of EU pre-accession funds. In early 2002, the CEPA initiated the formation of a national NGO watchdog team to campaign for systemic measures to combat bad practices in the management of EU funds, especially those related to the overall

⁴⁷ Growing suspicion of the systematic misuse of EU funds in Slovakia erupted in an international scandal at the end of March 2001. After publication of important incriminating documents provided by the wife of the Director of the Department of Foreign Assistance of the Slovak Republic's Government Office and a key person responsible for management of EU funds, official audits, the media and NGOs revealed a number of shocking findings that generated pressure for changing both the EU and Slovak's management of aid, mostly the Phare programme. (In: „Billions for Sustainability? Lessons learned from the use of pre-accession funds“, November 2002, Friends of the Earth Europe and CEE Bankwatch Network).

⁴⁸ CEPA is a member organization of the CEE Bankwatch network and one of the founding members of Friends of the Earth in Slovakia.

legal framework and institutional set-up. The team became a platform for critical NGO discussion about the issues related to the programming, implementation and monitoring of various programmes funded from EU funds and a tool for information exchange not only among the members of the team but also between other NGOs and the public as well.

Description

The roots of various forms of irregularities and even nepotism involved in the system of funds' administration was revealed to lay much deeper than in the mere behavioural culture of individual public officials.

Before the scandal, several NGOs attempted to monitor the quality of programming and implementation of EU funds in Slovakia but they lacked a joint common strategy and communication among them did not work properly. No working common platform existed to discuss NGO priorities in this area and NGO responses to emerging problems lacked mutual coordination. The Gremium of the Third Sector, which was previously considered by the state to be a major partner representing the NGO sector, essentially disappeared after 1998.⁴⁹ This network has become inactive and lost its mandate from many NGOs as well. NGOs gradually started to coordinate their activities through issue-oriented platforms, but they did not form any horizontal cooperation on EU funds.

On the one hand, NGOs called for transparency and participation in the system of programming and management of EU funds while, on the other hand, they did not have sufficient capacities for real participation, if such a possibility eventually emerged. NGO representatives who were given seats in a part of official structures (working groups, monitoring committees, etc.) usually did not properly report to their constituencies, they lacked clear priorities and therefore, their participation was not effective. For this reason, the CEPA initiated the formation of a national NGO watchdog team.

⁴⁹ The Gremium of the Third Sector was established in the early 1990s mainly to campaign for a better legal and financial framework for the operation of NGO sector in Slovakia.

The team currently comprises 20 NGO representatives involved in monitoring committees of both pre-accession funds and Structural Funds, past working groups for programming and people involved in regional development issues. They discuss mostly via internal e-mail conferences facilitated by the CEPA and meet four times a year. Based on information from the team members, the CEPA created a comprehensive website on EU funds.⁵⁰ It contains information on the structure of EU funds, programming, all measures included in operational programmes, advice for potential beneficiaries, financial aspects, reports of monitoring committees and the latest developments including press releases and statements on the EU funds. It serves as an alternative information clearinghouse mainly for municipalities and NGOs in Slovakia.

Recently, the team adopted a code of conduct for its members and a statute in order to be transparent, standardize its operations and to prevent bad practices among its members.

The watchdog team worked out a number of policy and legal recommendations and a few of them were accepted, leading to significant improvements in the framework for governance of the management of the EU funds in Slovakia⁵¹.

Conclusions

Previous work and experience of the members of the watchdog team will also be utilised in the preparation for the next programming period. At the moment, the watchdog team is focusing on preparing a national strategy for involvement of the Slovak NGO community in the programming for the 2007-2013 period. The strategy will build on lessons learned from the previous programming processes, in order to prevent past failures with respect to transparency and implementation of partnership principles and to make sure that sustainability aspects are reflected in final outputs of the process. Moreover, the government's adoption of the watchdog legal and policy recommendations,

⁵⁰ www.eufondy.org

⁵¹ See the case study: *Systemic response to allegations of nepotism and conflict of interest in Slovakia*.

leading to significant improvements in the framework for governance of the management of the EU funds in Slovakia, should result in substantial change with the transparency, fairness and proper utilization of the EU funds even in the present programming period.

3. Mechanisms for selecting environmental NGO representatives on various committees - including committees for management of EU funds in Hungary

Introduction

During the annual meetings of the national Hungarian green movement⁵², representatives of the green movement are democratically elected to various committees, among others, to committees for the implementation of EU funds. Representatives of environmental NGOs in the Monitoring Committees of different Operational Programmes were selected in this manner as well.

Description

The meetings rally around 700 people from around 300 NGOs⁵³. Any registered NGO that includes environmental protection in its statute has the right to 1 vote. If the NGO is not registered, two registered NGOs have to sign a statement proving that the group actually exists and works on environmental issues.

Assembly organisers compile a list of committees and forums to which environmental NGOs should send representatives. Anyone can add further committees to this list within a given time limit, then the list is finalised at the beginning of the assembly. A poster is hung on the corridors for each committee and anyone can suggest representatives on these posters, writing the candidate's name, his/

⁵² The first general assembly of environmental NGOs in Hungary was organised in 1991. In its initial years, mostly the National Society of Conservationists or its member groups initiated the assemblies on a rather *ad hoc* basis (dates were not fixed, neither were the programme or the rules). Gradually the system developed into a more formalized stage and became known as the national Hungarian green movement. The national annual meetings also provide solid opportunities for social dialogue and an exchange of opinion with the most crucial people in politics.

⁵³ Organisers attempt to gather all the mailing lists from umbrella organisations, in order to be able to invite all known NGOs.

her organisation and the name of nominating organisation(s). After the list is closed, the candidates introduce themselves at the plenary session, stating whether they accept the candidacy or not. Following the introduction, a list is prepared with all the candidates for all the committees and a secret ballot takes place. The votes are then officially counted and the results are announced at the plenary session.

This year, a conciliatory forum was created from among the elected representatives of various committees. The forum coordinates the green movement between the two meetings. It has the right to elect representatives to the new committees that are established during the year between the annual general meetings. In this manner, in September 2004 the conciliatory forum elected representatives to the WGs for the preparation of the NDP for the next programming period⁵⁴.

The elected representatives are expected to provide continuous feedback to their electors during the year. A good avenue for this feedback is the e-mail list called "movement". Generally, representatives should make reports from every meeting of their committee and a comprehensive report on their activities for the national meetings of the Hungarian green movement.

Conclusions

The foregoing system not only ensures the democratic selection of the best available representatives of environmental NGOs to various important committees, but also establishes a functioning and efficient platform for democratic discussions on important problems, for the preparation of common environmental policies, positions and procedures to be enforced and implemented through the environmental NGO representatives in the committees, including committees for the implementation of EU funds. The representatives elected in this manner enjoy a strong mandate from the ENGO community. Moreover, it is worth stressing that Hungarian authorities accept the choice made during the meetings,

⁵⁴ This is because at the time of the last national meeting, the call for candidates had not yet been announced.

thus respecting the ENGOS' right to elect their own representatives. This certainly constitutes a practice worth promoting, as authorities in many countries tend to prefer a priori selection of NGO representatives themselves, thus limiting the representatives' legitimacy. The manner of electing the delegates gives strong legitimacy for representing ENGO interests in the different bodies established for SFs. Authorities cannot select NGOs that are less critical of their work, or they cannot refuse participation possibilities upon the argument that the civil sector cannot organise its legitimate representation.

4. Coalition of Polish Environmental NGOs on EU Funds

Introduction

Four environmental NGOs (ENGOS) working on EU Funds have decided to create a platform of co-operation to promote more effectively the principle of sustainable development in EU Funds operations. The coalition has subsequently been invited to a wider Central European co-operation platform, SFteamCE, dealing with issues of EU assistance in CEE countries⁵⁵. Since the beginning of 2004, the Polish coalition partners⁵⁶ have joined forces to influence the programming and implementation of EU Structural and Cohesion Funds. Some positive results have already been achieved.

Description

The coalition partners have mainly focused on the following priorities and achieved the following results:

⁵⁵ SFteamCE includes the following ENGOS: Centre for Community Organising (the Czech Republic), Centre for Environmental Public Advocacy (Slovakia), Coalition of Polish Environmental NGOs on EU Funds (Poland), National Society of Conservationists (Hungary), Milieukontakt Oost-Europa (the Netherlands). The activities of SFteamCE, including Polish coalition activities, are carried out within the programme *Partnership for Sustainable Development in Central Europe*.

⁵⁶ Institute of Environmental Economics (IEE) - CEE Bankwatch Poland; Institute for Sustainable Development; Polish Green Network - CEE Bankwatch Poland and WWF Poland.

A. Supporting ENGO representatives in steering and monitoring committees for EU funds

In 2003, several ENGO representatives obtained seats in committees for EU Funds. For a few months, the established committees were functioning properly, however, after the entry into force of the Act on the National Development Plan (NDP), all committees were dissolved⁵⁷. The ENGO coalition organized a meeting of former representatives and issued a common position paper endorsed by numerous NGOs and addressed to the Minister of the Economy and other ministers to extend the mandate of democratically chosen ENGO representatives in new committees instead of conducting yet another selection procedure. Unfortunately, the response of the ministers did not satisfy the coalition members, as their position was not taken into account; new elections to some of the committees were organised, resulting in some ENGO representatives losing their seats and the ENGO community losing its representation in those bodies.

Moreover, the coalition co-ordinates the activities of ENGO community in the elections to remaining EU Funds committees⁵⁸. Some of the coalition members, as well as other ENGO representatives supported by the coalition, have already been invited to the committees. Some are still waiting for respective ministries to make their decisions.

B. Influencing the next programming period /2007 - 2013/

The public hearings on different aspects of the NDP have already begun. The coalition partners plan to participate in consultations on the environment, agriculture and fisheries. The coalition applied to the Ministry of Infrastructure to be invited to the public hearing on

⁵⁷ The Act on the National Development Plan, which came into force 8 June 2004, constitutes the legal basis for establishing and functioning of all EU Funds committees. Before, the temporary committees functioned on a temporary legal basis. New committees have now substituted the old ones. Some of the representatives have been automatically invited to new committees, others had to apply, whilst some have already been denied membership. The coalition is planning to intervene with the aim of restoring the ENGOs representatives to their committees.

⁵⁸ The number of national steering and monitoring committees is quite large in Poland, as there are seven sectoral operational programmes plus the Cohesion Fund and each has to have at least one steering and one monitoring committee (sometimes a couple of committees exist for one programme). Some committees have not yet been established.

transport issues. The co-operation of NGO representatives shall mainly involve discussing and preparing a common position on the NDP to be presented at meetings.

C. Disseminating information on EU Funds issues among NGOs and other stakeholders

The Institute of Environmental Economics (IEE), within the coalition framework and supported actively by coalition members and ENGO representatives on EU Funds committees, has created a website on EU Funds addressed to ENGOs. Its aim is to deliver relevant information to ENGOs as EU fund beneficiaries and bodies involved in decision-making processes. The website is intended to be a platform for exchanging information between large, national ENGOs and local, grassroots organisations. Local NGOs can provide the representative with information on controversial projects to be discussed further during the sessions of national and regional steering committees.

Conclusions

Establishing the coalition improved the system of communication between ENGOs working on EU Funds. Meetings and the internal mailing list have been effective tools in creating a platform for rapid exchange of information, whenever it is necessary. The partners, working on similar (but not the same) aspects of EU Funds operations, make the coalition's activities more effective and provide the ENGO community with relevant information. Even though the position paper mentioned above did not bring positive results, the coalition was able to react promptly and to mobilise several NGOs when the problem occurred. Therefore, it is justified to claim that the coalition constitutes the most efficient manner to deal with complex issues of EU Funds programming, implementation and management.

5. A coalition of Latvian NGOs regularly exchanges information on the Structural Funds

Introduction

NGOs from different sectors exchange information on the Structural Funds through a common mailing list and increase their capacity to work on the issues.

Description

NGOs have undertaken numerous initiatives to ensure that they can participate in the processes of programming, implementation and monitoring of the Single Programming Document (SPD) and Structural Funds (SFs). The necessity to monitor the use of EU funds with respect to environmental, social and gender aspects had been stressed during several NGO seminars and roundtables organised in 2003. In September 2003, representatives of more than ten NGOs met and established an NGO initiative group, with the aim to closely follow SFs programming and implementation, as well as NGO involvement in the monitoring process of SFs. The initiative group established a mailing list, through which more than thirty participants exchange information and prepare comments to draft documents. Additionally, an e-mail platform for a broader group of NGOs from different sectors also exists, through which participants can disseminate information on issues reviewed by the SPD Monitoring Committee.

Conclusions

Establishing such coalitions increases NGO capacity to monitor the use of EU funds, rendering NGO participation in the programming, implementation and monitoring processes more efficient and effective. It worth noting, however, that although information exchange over e-mail lists or websites is sufficient for access to information purposes, direct meetings also are indispensable. One possible solution in order to achieve more effective involvement is to make one NGO responsible for coordinating the initiatives coming from other NGOs, or at least NGOs representing one sector.

6. A working group of NGOs and social partners regularly discusses the implementation of Structural Funds in Latvia

Introduction

The Ministry of Finance organises regular meetings of an advisory working group to Structural Funds (SFs), where participation is open to NGOs and other social partners interested in SFs implementation and monitoring issues.

Description

Several NGO representatives are included as members in the Monitoring Committee for the Single Programming Document (SPD). The number of NGOs and other social partners interested in SFs implementation issues, however, is much larger. Therefore, the Ministry of Finance established an informal working group for Structural Funds, enabling all interested NGOs wider access to SFs implementation and monitoring matters. Currently, over twenty organizations are represented in the group, however, only one of them deals with environmental issues. Usually, meetings are held once a month and are of an informal character, i.e. no official regulation exists for the working group. Although the Ministry of Finance is responsible for organising the meetings, participants have the opportunity to determine the agenda by sending in their questions and proposing issues for discussions. To date, the meetings of the working group have served more for informational rather than consultative purposes. They provide the Ministry of Finance and other relevant institutions with an opportunity to inform NGOs and other social partners about the latest developments and to present explanations to questions the participants may have. To date, NGOs have not used these meetings for lobbying.

Conclusions

NGOs and other stakeholders have welcomed the Ministry of Finance's initiative. Meeting participants, however, should be more active in defining the agenda and discussing the issues. If NGOs adopt a more active approach, the working group will provide an opportunity to establish a common communication platform for addressing not only matters of current SF implementation and monitoring processes but also of preparations for the next programming period.

6. CONCLUSIONS AND RECOMMENDATIONS

This chapter contains the main conclusions ensuing from the case studies described in the report. The conclusions are based on NGOs experience with regard to participation in the programming, implementation and monitoring of EU funds. The chapter also provides recommendations for the strengthening of the public participation principle with respect to the European Union funds.

Conclusions

1. The case studies presented in the report clearly point to the benefits that derive or can be derived from including ENGOs in programming, implementation and monitoring of EU Funds. The changes ENGOs proposed were aimed at wider consideration of sustainable development principles, bringing tangible social and environmental benefits and contributing to more effective utilization of public resources.
2. The presented cases prove that space exists for cooperation between ENGOs and public administration bodies. The cases indicate some positive approaches to the creation of conditions for public participation (e.g., democratic elections of ENGO representatives, institutions for public involvement, responding to ENGOs' proposals, etc.) that state administrations dealing with EU Funds has already applied.
3. ENGO representatives involved in the programming, implementation and monitoring of EU Funds can play a significant role in supporting environmental protection authorities in their dialogue with institutions responsible for other sectors and may also provide support for dialogue with European Commission bodies. Issues that environmental protection authorities cannot address, can be voiced by ENGOs, which may fiercely and decisively «fight» for the most environmentally friendly solutions. It appears that environmental authorities and NGOs are naturally allies. Environmental aspects are easily realizable in countries where the Ministry for the

Environment and NGOs cooperate on a broad scale, including informal means of cooperation.

4. Despite the positive examples described above, public participation is frequently treated as an impediment to decision-making. The main arguments are that public participation delays the process, whilst NGO representatives do not have expert knowledge and experience. Public administration in CEE has no tradition of understanding and dedication to public involvement; partially, this is the legacy of past experience during the communism period. Frequently, public participation is organised only as a matter of formal requirement, in practical terms depriving social partners of real impact on the decisions affecting EU Funds programming, implementation or monitoring. Encouragement from Brussels to genuinely involve NGOs in EU funds proved to be a good tool to convince national authorities of the relevance of NGO participation.
5. Many case studies prove that applying solely formal legislative requirements is not sufficient to guarantee effective and socially beneficial participation, as this in practice requires:
 - administration's understanding of the significance of public participation in decision-making processes;
 - goodwill from the administration;
 - creation of an institutional basis for participation;
 - guarantee of sufficient time for public involvement in decision-making processes;
 - administration's sufficient capacity and skill to design and implement an effective process;
 - professional and organizational preparation of ENGOs, which also includes sufficient capacity and financial resources;
 - active and constructive participation from ENGO representatives, including good relations with their constituencies.
6. Unfortunately, especially in the programming process, information is lacking on how the process will be conducted,

what the rules for public participation and the schedule of activities will be. Even if such information is available, frequent changes resulting from changing and unclear instructions from the EC or from a lack of institutional and procedural preparedness give rise to 'organisational chaos' and hinder participation. Clear, enforceable and binding rules and guidelines are absent for participation in EU fund operations on the national, as well as on the EU level.

7. Large differences exist in the EU funds management among the Member States. For example, the positive practice of including ENGOs in the Steering Committee for the Cohesion Fund in Poland is unique among the new Member States and gives ENGOs in Poland an opportunity to consult infrastructure projects proposed for the CF, to advocate for increasing transparency and efficiency of CF resources allocation and for respecting environmental standards. Such an opportunity is not available in other countries, due to general provisions of EC guidelines on the partnership principle.
8. The issues that particular advisory bodies deal with are very complex and their scope is much broader than environmental protection. Nevertheless, participation of ENGO representatives in bodies established for sectors such as economy, education, transport, agriculture, tourism or energy is of key importance to the implementation of sustainable development principles and the integration of environmental concerns. ENGO representatives frequently possess expert knowledge, therefore, their arguments should be taken into account.
9. The cases presented in the report show that a number of ENGO coalitions dealing with EU Funds issues have been set up in the new Member States and candidate countries. This proves that ENGOs are not only institutionally ready to participate, but also express their concern and interest in the programming, implementation and monitoring of EU Funds. They are not always, however, provided with such an opportunity.

10. NGOs' significance is directly connected with the position of their representatives in various bodies dealing with programming, implementation or monitoring of EU Funds. This position is also linked to the manner in which representatives are elected. Democratic election is preferable to hand-picking by the state. If elected in a process where the candidates are first proposed by the NGO community and then voted on, the representatives' position is stronger than if he/she had been invited or appointed by the state.
11. Along with national level cooperation, NGOs also exchange their views and formulate common positions on national and European processes. Mutual learning does not only bear fruit at the national level, but existing European NGO networks are also becoming partners for the European Commission by providing opinions and feedback to European institutions with the aim to guide European regional policy towards sustainability.
12. Through active participation, NGOs also increase their expertise and capacities with respect to environmental technologies, investment process, as well as financial and economic aspects of the projects. Such knowledge strengthens organizations, improves their professional performance, and makes the arguments put forward by the representatives of the environmental movement more credible.
13. By involving NGOs in decision-making on programming, implementation and monitoring stages, their significance in society increases and they become stronger; they are judged as a desirable partner, which, most importantly, serves to develop civil society.
14. One of the more significant obstacles is a lack of wider NGO involvement in supporting their representatives in advisory bodies. Usually, activities undertaken by regional and local organizations are far from sufficient. This may result from the complex nature of the decision-making process and the issues

addressed, from a lack of resources or time to address these matters or sometimes from a lack of information from NGO representatives involved in public participation. Most worrying, NGOs are frequently unaware of the significance of such decisions for the regional or local situation. Failure to perceive such connections may lead to situations in which it is difficult, or even impossible, to oppose at the regional or local level a decision that has already been made.

15. Another significant problem NGOs address is obtaining funding for participation in EU Funds programming, implementation and monitoring activities. Many processes and advisory bodies into which NGO representatives are invited exist, yet not all of them are directly related to environmental protection. As far as environmental issues are concerned, ENGO representatives should participate in activities that relate not only to environment or nature protection, but also to infrastructure development, agriculture and rural areas, tourism and other sectors of economy. The costs that NGOs need to cover include: travel costs, hiring experts, cost of preparing positions as well as time devoted to participation in meetings. It is also necessary to ensure that national and European NGOs coordinating public participation have access to funds necessary to facilitate their national and European coalitions.

Recommendations

The case studies presented in this report demonstrate that broader NGO involvement is desirable as it contributes to fuller implementation of the partnership principle, increases the transparency of the decision-making process related to EU Funds, combats corruption and fraud, as well as ensures better recognition of sustainable development principles and environmental requirements. Below, we present a set of recommendations at the European, national and NGO levels, aimed at enhancing public participation in the programming, implementation and monitoring of EU Funds.

Recommendations at the EU level

1. Partnership principle as well as provisions on including NGOs in the processes of programming, implementing and monitoring EU funds should be well defined in the regulations establishing EU funds. Leaving the decision whether to include NGOs in those processes up to the beneficiary countries may result in violations of the partnership principle. Therefore, the Commission should play an important role in ensuring that beneficiary countries establish appropriate legislation allowing the involvement of NGOs and that consultation processes are organized in an efficient and transparent manner. Sound provisions on the partnership principle should be included in new regulations for the EU funds for the programming period 2007 – 2013.
2. In July 2004, the Commission published draft regulations for the EU funds for the period 2007 – 2013. The proposal is going to be discussed by the European Parliament and the Council. The proposal partly strengthens the existing partnership principle, by extending it from implementation and monitoring also to programming and planning, and by increasing the responsibility of partnerships. Environmental NGOs are now mentioned as potential participants in the partnerships but still are not considered to be a compulsory partner from among economic and social partners. The new regulations should ensure that environmental NGOs are systematically included into all partnerships.
3. The European Commission should elaborate guidelines for public participation for Member States and should monitor the realization of partnerships in programming, implementation and monitoring. The European Commission has to build direct contacts to European level representatives (umbrellas) of NGOs and be receptive to their opinions and regularly provide feedback. Relevant chapters of current EU fund regulations should also apply to European level organizations of ENGOs.⁵⁹

⁵⁹ "Each year, the Commission shall consult the European-level organisations representing the social partners about the structural policy of the Community." EC 1260/1999, Article 8, 5.

4. Strategic Environmental Assessment is a relatively recent tool for EU Member States, especially for the new ones. National legal systems do not make it clear in all the Member States that the SEA legislation should be applied to programming documents for the 2007-2013 period. Therefore, the European Commission should make it clear to all Member States that it is compulsory to conduct SEA for the above programmes and plans.
5. The European Commission should create an extra support fund for the capacity building of European NGO networks working on regional policy. The participation of environmental and other NGO networks in the shaping of national and European regional policy contributes to the effective and transparent use of funds and the creation of a regional policy more in line with the principles of sustainable development.

Recommendations at the national level

6. The partnership principle should be reflected in national legislation, establishing a basis for efficient NGO involvement in the programming, implementation and monitoring of EU Funds. Given the significant environmental impact of many EU-financed projects, environmental NGOs should be treated as rightful partners in all fields where such impacts occur.
7. To avoid corruption and fraud, it is advisable that countries follow the example of Slovakia in setting up binding anti-corruption measures in the context of EU funds. NGOs role as 'watchdogs' would be extremely important in implementing such measures.
8. If the process of including ENGOs in the programming, implementation and monitoring of EU Funds is to proceed properly, it is essential to establish institutions that would organize the process and constitute a platform for exchanging opinions. It may have various forms, e.g., a committee, a commission or a discussion forum. Regardless of its form, such an institution has to possess a legal basis, defined rules of

- procedures and a schedule of meetings. Such an institution should pursue its activities transparently and democratically.
9. Experience presented in the case studies show that the best manner of designating ENGO representatives for bodies dealing with EU Funds programming, implementation and monitoring is voting organized among environmental organizations. Other solutions are less advantageous and make the position of the representatives weaker. Therefore, national and regional authorities responsible for EU Funds should widely encourage such voting procedures.
 10. Participation of ENGO representatives should not be informal or occasional. Therefore, it is important that this participation is documented in official protocols from meetings and that materials that NGOs prepare are treated with due consideration. The authorities should officially respond to the requests and proposals voiced by NGOs.
 11. Prepared opinions and comments to various documents on EU Funds, regardless of whether they are presented in paper or electronic form or whether they are directly presented during meetings, should be followed by an authority's official response. Therefore, it is crucial that the final versions of the documents should include not only the summary of proposed comments and changes but also information on how they were taken into account or why they were not included in the document.
 12. At the start of the programming process, the plan and the schedule of the process and the opportunities for public participation have to be made public. National authorities should create a separate website where they publish up-to-date information about the process and recent documents regularly. They should also publish the name and contact of the office department in charge for public participation and of relevant people in charge. They should also directly contact the alliances of most relevant partners, including ENGOs.

13. Frequent changes in documents are one of major obstacles resulting from the manner in which public administration functions. This especially relates to the programming stage, where rules for preparing the documents, already established schedules or guidelines tend to change very often. In some cases, NGOs are still working on one version of a particular document when the next version is disseminated. The partners and the public should be given a reasonable amount of time for consultation process, commenting the documents etc. Appropriate rules guaranteeing sufficient time for consultations should be established.
14. As regards programming, public participation should include access to information, commenting on documents and direct participation in planning teams. Democratically elected representatives of ENGOs should be guaranteed the right to participate in planning teams directly. This applies not only to teams dealing with environmental measures directly but to all planning teams, as this is required for the horizontal integration of environmental aspects.
15. Regulations establishing contents of the programming documents should ensure that project selection criteria become a mandatory part of programming documents.
16. Programme documents are required to possess both an ex-ante evaluation as well as a strategic environmental assessment. In a sense, this involves repeating the same activities. In order to avoid overlapping, it is necessary to integrate evaluation efforts, so that ex-ante evaluation includes strategic environmental assessment. This solution will help to eliminate possible discrepancies and to utilize public resources in a more efficient manner.
17. Member States should conduct SEAs in such a manner that they provide input to all stages of the programming process – from its very beginning – and are sufficiently open to public participation. Democratically elected ENGO representatives

should be directly involved in the SEA teams. Moreover, SEA should be conducted in order to check which project option is most advantageous and not to justify the adoption of an already selected option. The same assumptions should apply to environmental impact assessments for specific projects.

18. As regards implementation, steering committees should be established for all the operational programmes of all Structural Funds and for the Cohesion Fund in each Member State.
19. ENGOs should be provided seats in all relevant advisory bodies established for the EU Funds. The environment is a horizontal issue, and it has to be integrated in each Structural Funds measure. Therefore, direct participation of environmental NGOs is inevitable.
20. NGO representatives speak for particular social groups and therefore should enjoy full member status in all advisory bodies. The practice of providing NGO representatives with an observer status should be abandoned and replaced with full member status with full voting rights.
21. In general, the ENGOs' position in particular bodies appointed for EU Funds is not particularly strong. Therefore, the manner of making decisions is of crucial importance. The decisions can be made through consensus, a qualified majority of votes or a simple majority of votes. The consensus principle would be of course the most desirable solution, however, reaching a consensus is frequently problematic. Therefore, it is recommended to apply a gradual procedure for decision-making. The first step should always be an attempt to reach consensus. If this proves impossible, qualified majority voting, e.g. 3/5 or 2/3, should constitute the second step. Simple majority voting places environmental organizations at a disadvantage.

22. Due to significant costs related to ENGO participation in EU Funds programming, implementation and monitoring, it appears indispensable to allocate, from technical assistance resources, a budget that would allow for fuller and more effective participation of representatives of social organizations. Member States should open these budgets as soon as possible, in order that NGOs be able to use them during the 2007-13 programming process.

Recommendations at the NGO level

23. ENGOs should set clear goals in terms of what changes they want to achieve in Structural Funds and Cohesion Fund programming and implementation. They should not focus on environmental measures exclusively, but also promote the principles of sustainability, with the EU Sustainable Development Strategy adopted on Gothenburg Summit in June 2001 as a minimum standard. They should strive to change the one-sided approach of the EU limited to economic and infrastructure development. They should present authorities with a development model based on assistance to local communities and local economies to develop in harmony with the environment. The main tools of this model are not material investments but investments in human capacity, including community building, support to NGOs and raising environmental awareness and education. The precautionary principle and intergenerational justice should also be taken into account.
24. The key to effective NGO participation in the programming, implementation and monitoring of EU Funds is their high level of competence. NGO positions have to be well justified not only with respect to environmental issues but also in an economic and social sense. Therefore, it is crucial to establish teams of experts from different sectors, but with a broad understanding of sustainable development issues, cooperating with environmental movements, so that they can provide NGOs with necessary advice and assistance.

25. The position of the representatives depends on the support they obtain from other organizations. Therefore, it is of great importance to maintain close relations between the representatives and the whole environmental community. Providing information on current activities of particular advisory bodies should be considered as a necessary minimum. It would be more advantageous, however, to consult prior to meetings with NGOs specializing in a particular field and to organize meetings in order to exchange opinions between the representatives and environmental organizations. One possible solution would be to create coalitions for the programming, implementation and monitoring of EU Funds.
26. Given numerous regional and local organizations' limited interest and understanding of the processes, it is necessary to organize training and workshops for such organizations, as well as to conduct a campaign and disseminate information materials. These steps would make regional and local organizations more aware of the significance of the decisions made during EU Funds programming, implementation and monitoring for regional and local issues of their interest.
27. One of key issues is establishing partner relations between NGO representatives and officials from governmental bodies. This contributes to positive conditions for conducting dialogue and searching for constructive solutions by both sides. Mutual respect and cooperation can be promoted by authorities and NGOs organising workshops together on e.g., the incorporation of sustainable development in programming and implementation.
28. ENGOs should participate actively in programming processes from the very first stages of programming. It is important to affect even the structure of the programming process because the institutional structure that the Member State develops to a large extent determines the ability to advocate for and integrate environmental aspects. It is also worth noting that affecting the situation analysis and the strategic objectives often

brings better results than merely commenting on operational programmes or programme complements.

29. Numerous examples exist of ENGOs opposing particular projects or investments. Such activities are significant though often difficult to apply for a wider range of projects. A much more effective solution is to try to influence programming documents and project selection criteria during the programming process, as they do not refer to only one particular project but to system decisions that are much more durable and in a way easier to implement than opposing just one selected project.
30. EU legislation requires the conducting of strategic environmental assessments. This requirement has been transposed to Member States' national legislation. NGOs have to realize, however, the significance of this instrument and how it can be utilized to influencing the strategic provisions proposed in the documents. NGOs should not only advocate for the conducting of SEAs, but also actively participate in specifying the assessment's scope and take part in public consultations organized for SEA reports. NGOs should strive to participate in SEA teams directly, as in this manner they can exert more leverage.

7. LIST OF CASE STUDIES AND CONTACTS TO THE REPRESENTATIVES

Programming

1. NGO involvement in the Strategic Environmental Assessment of the National Development Plan of the Czech Republic p. 22

Jiří Dusík, Regional Environmental Centre for CEE (REC)
jiri.dusik@rec.org

2. NGO involvement in the Strategic Environmental Assessment of the Regional Operational Programme in Hungary p. 25

Iván Gyulai, Ecological Institute for Sustainable Development, NGO member of the SEA expert group
gyulai@ecolinst.hu

3. NGOs commented the Rural Development Plan in Slovakia p. 26

Milan Janák, Head of the Department of Environmental Policy
Eva Viestová, Policy Coordinator
DAPHNE, Institute of Applied Ecology
daphne@changenet.sk
viestova@changenet.sk

4. Environmental NGO cooperation on the preparation of the Single Programming Document in Estonia p. 28

Peep Mardiste, Estonian Green Movement-FoE, CEE BWN
Coordinator of Council of Environmental NGOs
pepe@ut.ee
www.eko.org.ee

5. Election procedures for NGO representation in the planning teams for preparation of programming documents of the Structural Funds in the Czech Republic p. 31
Martina Svobodová, The Center for Community Organising
Contact person of the platform NGOs & Regional Development
martina.svobodova@cpkp.cz

6. World Wildlife Fund participated on the Committee for the Design of Content and Procedures for Preparation of the National Development Plan for the period 2007 – 2013 in Greece p. 33
Constantinos Liarikos, WWF-Greece, member of a number of advisory bodies for the EU Funds
c.liarikos@wwf.gr

7. NGOs involvement in the preparation and ex ante evaluation of the Operational Programme of Thuringia region in Germany for the period 2000-2006 p. 35
Frank Augsten, BUND/FoE-Germany, member of Monitoring Committee for Structural Funds in Thuringia
frank.augsten@t-online.de

Implementation

1. Involvement of environmental NGOs in Steering Committees for the Cohesion Fund in Poland p. 42
Andrzej Guła, Institute of Environmental Economics/CEE BWN,
Andrzej Kassenberg, Institute for Sustainable Development,
Members of Steering Committee for the Cohesion Fund in Poland
(Environmental Sector)
andgula@iee.org.pl
a.kassenberg@ine-isd.org.pl

2. Procedures for electing NGO representatives to steering and monitoring committees for EU funds in Poland p. 46

Andrzej Gula, Andrzej Kassenberg

Members of Steering Committee for the Cohesion Fund in Poland (Environmental Sector)

andgula@iee.org.pl

a.kassenberg@ine-isd.org.pl

3. Participation of environmental NGO representative in the Regional Steering Committee for Regional Development in Lower Silesia, Poland p. 69

Krzysztof Smolnicki, Lower Silesian Foundation for Sustainable Development

Member of Regional Steering Committee for Regional Development

krzysiek@eko.org.pl

4. NGO influence in the Steering Committee for Structural Funds environmental measures in Estonia p. 52

Peep Mardiste, Estonian Green Movement-FoE (on behalf of the Council of Environmental NGOs)

Member of Steering Committee for measure "Development of Environmental Infrastructure"

pepe@ut.ee

5. NGO involvement in the project selection process in Hungary p. 54

István Farkas, Friends of the Earth Hungary (FoE Hu)

ifarkas@zpok.hu

Monitoring

1. NGO involvement in the Monitoring Committee of the Sectoral Operational Programme for Agriculture and Rural Development in Slovakia p. 61
Michaela Galvánková, VYDRA – the Rural Development Activity (Vidiecka rozvojová aktivita)
NGO representative in the Monitoring Committee of the SOP ARD
miska@changenet.sk

2. Environmental NGO involvement in developing one of the solid waste management projects under the ISPA Fund in Lithuania p. 63
Linus Vainius, CEE BWN
linas@atgaja.lt

3. Election procedures for environmental NGO representation in the SAPARD monitoring committee in Bulgaria p. 65
Svetla Nikolova, AGROLINK Association
An ENGO representative in the Monitoring Committee of the SAPARD programme
agrolink@bgnet.bg

Irina Kostadinova, Bulgarian Society for Protection of Bird
An ENGO representative in the working group
Measure “Development and diversification of economic activities, provision of multiple activities and alternative income”
bspb_hq@bspb.org

Simana Markovska, Pirin Tourist Forum
An ENGO representative in the working group
Measure “Investments in agricultural holdings”
ptf@pirin-tourism.bg

Teodor Todorov, TAIM Foundation

An ENGO representative in the working group Measure “Forestry, afforestation of agricultural areas, investment in forest holdings, processing and marketing of forestry products”

tufo@time-foundation.org

Nadia Boneva, TAIM Foundation

An ENGO representative in the working group Measure “Renovation and development of villages, protection and conservation of the rural heritage and cultural traditions”; and Measure “Development and improvement of the rural infrastructure”.

nadya@time-foundation.org

Tencho Hristov, Foundation BIOSELENA

An ENGO representative in the working group Measure “Improvement of vocational training”

fsa@geobiz.net

Dimitar Nikolov, AGROLINK Association

An ENGO representative in the working group Measure “Improving the processing and marketing of agricultural and fishery products” and Measure “Wholesale markets”.

agrolink@bgnet.bg

4. Access of NGO representatives on the ISPA monitoring committee to the documents related to ISPA projects in Bulgaria..... p. 66

Anelia Stefanova, Za Zemiata (For the Earth), CEE BWN ENGO representative in the ISPA Monitoring Committee - Environment and Transport

anelias@bankwatch.org

**5. Election procedures for NGO representation
in the monitoring committees of the structural funds
in the Czech Republic p. 69**

ENGO Members of the European Union Committee of the
Government Council for Non-State Non-Profit Organizations (EUC
GCNPO):

Miroslav Kunderata, Partnership Foundation (Nadace Partnerství),
miroslav.kunderata@ecn.cz

Yvonna Gaillyová, Ekologický institut Veronica,
yvonna.gailly@ecn.cz

Josef Zetěk, Chaloupky,
reditel@chaloupky.cz

Pavel Černohous, Ateliér pro životní prostředí,
atelierzp@volny.cz

Zuzana Drhová, the Green Circle (Zelený kruh),
zuzana.drhova@ecn.cz

Independent NGO monitoring

**1. Systemic response to allegations of nepotism and
conflict of interest in Slovakia p. 73**

Juraj Zamkovsky, CEPA (Center for Environmental Public
Advocacy), executive director
zamkovsky@changenet.sk

**2. Creation of an independent infrastructure
to monitor the management of EU funds
in Slovakia p. 78**

Juraj Zamkovský, CEPA (Center for Environmental Public
Advocacy), executive director
Katarína Lukáčová, CEPA
zamkovsky@changenet.sk
klukacova@changenet.sk

- 3. Mechanisms of selecting of environmental NGO representatives to various committees - including committees for management of EU funds in Hungary p. 81**
Vera Móra, Secretariat of Conciliatory Forum: Hungarian Environmental Partnership Foundation
move@okotars.hu
- 4. Coalition of Polish Environmental NGOs on EU Funds p. 83**
Marta Śmigrowska, Coalition coordinator
msmigrowska@zielonasiec.pl
- 5. A coalition of Latvian NGOs regularly exchanges information on the Structural Funds p. 86**
Alda Ozola-Matule, Latvian Green Movement
alda@lanet.lv
- 6. A working group of NGOs and social partners regularly discusses the implementation of Structural Funds in Latvia p. 87**
Janis Brizga, WWF-Latvia
Member of Structural funds' advisory working group
JBrizga@wwf.org.lv

8. REFERENCES

Many organisations, networks and coalitions in the accession countries (now new Member States) as well as the old Member States have investigated and monitored public participation and the partnership principle in EU Funds operations.

The following reports and documents resulting from these investigations served as useful guides in preparation of this report:

1. **Billions for Sustainability?** Lessons learned from the use of pre-accession funds (November 2002); CEE Bankwatch Network and Friends of the Earth Europe.
2. **Making EU Funds Work for People and the Environment.** Case Studies from Eastern and Central Europe (June 2004), CEE Bankwatch Network and Friends of the Earth Europe
3. **Partnerships for sustainable development?** Report on the structural funds programming process in central Europe. (February 2004); Centre for Community Organizing (Czech Republic); National Society of Conservationists (Hungary); Green Liberty (Latvia); European Centre of Sustainable Development (Poland); Centre for Environmental Public Advocacy (Slovakia); Milieukontakt Oost Europea (Netherlands).
4. **Public participation in regional development in Central Europe.** Aarhus Convention and Regional Development Project. (2002 May), Centre for Community Organizing (Czech Republic); Environmental Law Centre (Poland), National Society of Conservationists (Hungary)
5. **The illusion of inclusion.** Access by NGOs to the structural funds in the new member states of eastern and central Europe. (July 2004); Report for the Euro Citizen Action Service, Brian Harvey Social Research, Dublin.

6. **Neziskovky a regionální rozvoj.** Analýza spolupráce nestátních neziskových organizací a veřejné správy na tvorbě krajských rozvojových dokumentu případně dalších dokumentu relevantních pro EU (NGOs and regional development. Analysis of the cooperation of non-governmental, not-for-profit organisations and the state administration on development of regional development documents or other documents relevant to the European Union). (June 2003); Centre for Community Organising, Czech Republic and Gabal Analysis & Consulting.
7. **A Strukturális Alapok és a fenntarthatóság** (Structural Funds and sustainability). (May 2004); National Society of Conservationists, Hungary.
8. **Társadalmi részvétel a területfejlesztésben a fenntarthatóságért.** Phare Access projekt zárótanulmány. Public participation in regional development for sustainability. Phare Access project final study. (2004 May), National Society of Conservationists (Hungary)

Copyright © 2004
Institute of Environmental Economics
and CEE Bankwatch Network