

## **Response from the NGO representatives from Structural Dialogue on the European Code on Conduct on Partnership – The Delegated Act – Preparatory Fiche no. 1**

**February 2013**

We the undersigned environmental NGOs very much welcome the fact that the Commission has been given the mandate to develop the ECCP as a delegated act as result of the compromise reached by the European Parliament and Council on art.5 of the Common Provisions Regulation. We appreciate also the transparency involved in and the willingness to consult the Preparatory Fiche No 1 with the partners of the DG REGIO structured dialogue.

At the same time we would like to ask the Commission to consider further options for the exchange of information with the partners about the forthcoming Delegated Act. For example, it will be important to ensure that the exchange with Members States' experts on the ECCP is run in a transparent way and that partners at the European level receive the opportunity to provide feedback on the views presented by the Member States' experts. We believe that such a transparent and participatory way of designing the Delegated Act will be beneficial for the Commission in its efforts to promote best possible standards through the exchange of know-how and expertise.

The presented outline for the content of the ECCP is the right way forward and provides an excellent supporting document to the provisions on partnership made in several articles of the CPR. The document and future delegated act, however, will benefit from a clear affirmation of the purpose of partnership in its preamble as was made in the Commission Staff Working Document on elements for Code of Conduct SWD (2012) 106 final.

This document clearly states that partnership “has been identified as key to deliver Europe 2020” and that “Various evaluations have drawn attention to the benefits and added value that partnership can bring when it comes to the implementation of the funds, enhancing collective commitment and ownership of the EU policies, increasing available knowledge, expertise and viewpoint in the strategies' design and implementation, as well as ensuring greater transparency in decision making processes.”

In other words, the application of the best available practices for partnership will be the guarantee for efficient use of the EU funds to deliver smart, inclusive and sustainable development. We consider that this objective should be recognized and endorsed by the Delegated Act and with this become a guiding principle for any structure and process of partnership in the next budgetary period.

As one of the main promoters of the partnership principle for more than decade, we are concerned that partnership that is not guided by the above mentioned objective and/or is only formally applied could be detrimental for partners that represent broad public interests and as environmental organisations possess limited financial resources.

We understand that there are constraints on binding requirements that can be included in the Delegated act due to the scope of the agreement reached on art.5 of the Common Provisions Regulation and that Member States are insisting on keeping the right to organise partnership in a way that is most suitable for them. We, however, believe that the Commission should use its guiding role to prioritise certain results that will ensure that partnership serves its primary objectives. We would like to remind you that along with the Delegated Act the Commission could use the provisions of the Aarhus Convention, ratified by the EU and thus binding on the EU institutions and on the Member States, as a

legal tool for enforcement and that the Aarhus Convention provisions should be referred to in the Code of Conduct.

In our view the Commission should prioritise results in the following areas:

1) Increase the effectiveness of the EU funds through increasing the share of know-how and knowledge input from the partners towards the public administration and vice versa, or choose the best alternative approach. There are the following fundamental results that can be realised:

- thorough dialogue at an early stage where all options are open
- making partners feel equally important – by permitting voting rights and responding to comments.

2) Reducing maladministration and corruption cases through increasing transparency and accountability, the following fundamental results can be realised:

- Public access to all the information for the programming process (partnership agreement, ex-ante evaluation, SEA, national development plans) and project selection / application. Information is easily accessible and understandable. A non-technical summary of all this information is made available. Sufficient time is made available to the public to submit comments, information, analyses or opinions which the public considers relevant.

- Transparency surrounding partnership: representation, ability and time to reach their members/constituency, and transparency about who is who in the monitoring and working groups

**On specific chapters, we would like to make the following comments:**

### ***2. Main principles for identification of relevant partners***

The involvement of platforms or umbrella organisations within partnership agreements is a good solution, and should also include a representation of partners engaged in the programming. This also implies that, where umbrellas or platforms of potential partners exist, Member States should rely on these and respect the internal rules of delegation, as well as the delegates; these platforms or umbrellas should only be required to prove their representativeness credibly.

For bodies representing civil society we would like to see a better specification of horizontal principles. The principle of the integration of the environmental protection requirement with the view to promote sustainable development (art.11 TFEU) needs to be specified so that there is a clear expectation to engage environmental partners and organisations that deal with nature conservation in all the programming and implementation of the EU funds that might have an impact on the environment.

In order to ensure the transparent identification of partners, Member States should publish on their website the rules, procedures and criteria to be applied for this purpose and the results of the “identification”, i.e. the list of partners involved in various forms of partnerships.

### ***3. Main principles for involvement***

We welcome the requirement for Member States to consult the partners on the process and timetable of the preparation of the PA and the programmes. Subject to this consultation there should also be a consultation plan (including the process, timing and means and tools of consultation with the partners and the public).

As regards to the 2<sup>nd</sup> bullet point (involvement in selection of thematic priorities and indicative allocations) we suggest that partners are involved in discussion of the most suitable financing mechanisms for delivering the thematic objectives and achieving the main results. At that stage different options for financing mechanisms (such as grants, innovative financial instruments, EIB and EBRD loans and other financial instruments) should be thoroughly considered.

We welcome the idea to use the National Rural Networks but would add to this sentence that “.the networks should ensure a balanced representation of the partners described in point 2”.

We propose a further amendment of the ECCP with regard to the involvement of the general public, as mentioned above. Along with the early involvement of and consultation with the identified partners along the above principles, Member States should also give the general public opportunities and sufficient time to become familiar with the proposed content of the PA and the OPs and to voice their opinion, comments and recommendations regarding the draft documents prior to their adoption.

#### **4. *Main principles for rules of membership and internal procedures of monitoring committees***

We see a need for clarification on the proposal for members of the monitoring committees to sign a statement acknowledging their obligation to data protection and confidentiality. Members of monitoring committees are representative of their constituency and should have the opportunity to consult with its members and/or the organisations they represent. Furthermore, it should be made clear that the monitoring committee should apply the principle of presumption of disclosure of all information of public interest; specifically, transparency as it affects programs and projects that might affect the environment is of paramount importance. If this clarification is not made explicit we are concerned that the procedures of the monitoring committees could be made in a way that contradicts the provision of the Aarhus Convention regulation and prevents representatives of environmental NGOs from effectively enforcing their role of integrating environmental protection.

At the end we would like to add the following new bullet point on rules and procedures that specify the possibilities for capacity building and use of TA:

- Conditions, principles and arrangements for reimbursement rules, capacity building opportunities and use of technical assistance by partners.

#### **5. *Main objectives and best practices for the preparation of calls for proposals, progress reports, monitoring and evaluation***

We understand that it is necessary to avoid a direct conflict of interest when designing calls for proposals and the assessment of proposals. However, we consider it important for the ECCP to also acknowledge the added value of balanced and knowledge based involvement of the partners' involvement in these processes and to propose best practices in this regard.

Namely, some forms of the potential target group's involvement in the design of calls for proposals can be justified by their most relevant and valuable knowledge of the problems, needs to be addressed and the appropriate solutions thereof. Therefore, for example, a prior needs assessment among the target group (partners, potential beneficiaries) and public commenting on the draft calls for proposals are recommended, without risking conflict of interest. The same expertise, together with knowledge of the sector in question, provides added value to the assessment of proposals and the selection of the most credible and established applicants and most appropriate solutions proposed. Conflict of interest in this case can be prevented by involving the experts of partners not applying for funding from that particular measure.

## 6. Strengthening institutional capacity

Change the following wording:

Managing authorities could allocate part of their technical assistance to strengthen the institutional capacities of partners. Member States should identify needs where partnership can be improved with the help of technical assistance. This should in particular help to strengthen the work of platforms or umbrella organisations, increase the institutional capacity of small local authorities, economic and social partners and non-governmental organisations, so that they can effectively participate in the preparation, implementation, monitoring and evaluation of the programmes.

## 8. Member States' assessment of the implementation of partnership and its added value

In order to ensure the appropriate implementation of the partnership principle throughout programming, monitoring, implementation and evaluation, we propose to include in the ECCP a requirement for Member States to appoint an authority and a person to be responsible for overseeing and maintaining the partnership principle during the programming process and the 2014-2020 programming period.

The evaluation of the performance and effectiveness of this partnership should also include feedback from the partners.

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