

RE: Shortcomings in EU Monitoring Committees

TO: Commissioner Ferreira

Prague, 6 December 2021

Dear Commissioner Ferreira,

We would like to draw your attention to the set-up and functioning of the monitoring committees, a key element of the multi-level governance and bottom-up approach of Cohesion Policy funds. We believe that in order to achieve the objectives of the Green Deal and transform our societies and economies, such mechanisms should be strengthened. However, we regret to report that so far we do not see evidence that these committees are up to task.

EU funds should significantly contribute to the fight against climate change, biodiversity loss and the Green Deal objectives. The economic and climate crises we face mean that EU funds must be spent in more sustainable and just ways, faster and closer to the needs of people.

As Member States prepare the final drafts of Cohesion funds programming documents, we see the need for action to ensure better monitoring during the implementation of the programmes through the involvement of stakeholders, especially environmental groups. Our recommendations are also based on our experience with the design of the Recovery and Resilience Facility (RRF).

We welcome that the new common provisions regulation increased the scope of the monitoring committees' interventions in the management of the funds. As legally required these committees should provide for transparency and integrity when spending billions of euros and therefore, keep climate action on track towards 55 per cent greenhouse gas emission reduction by 2030 and net-zero by 2050.

The committees should also enable partners to have access and analyse the programmes and to positively influence them by issuing recommendations and voting on calls for proposals. Furthermore, monitoring committees play an important role for stakeholder cooperation and building alliances. The information civil society experts receive helps add evidence needed when advocating decision-makers and reaching out to citizens who are the final beneficiaries of EU support. Committee members should also be invited to working groups set up during the preparation of programmes for the next budgetary period, adding “institutional memory” in a dynamically changing political landscape, to which managing authorities are subject.

These benefits are however not reflected in what we have seen thus far. The reality is that if these systemic issues are not addressed, the effective spending of EU funds will be undermined.

At the same time, the monitoring committees for the RRF indirectly impact the practice of Cohesion funds monitoring. But we regret that there is no clear requirement to establish these committees within the RRF. The regulation’s provision on the arrangement for effective monitoring and implementation of the recovery plans by a member state is clearly insufficient.

Some states have shown good will in setting up committees for their national plans, sometimes in conjunction with Cohesion funds (as is the case in Estonia), allowing a more holistic overview of EU funds (but with this comes the risk of a lack of time and resources for effective monitoring).

However, these committees often do not reach the ideal standards for monitoring, and environmental groups are not properly involved. This creates issues of double standards about the accountability and transparency of EU funding instruments.

Regarding the committees for Cohesion Funds, CEE Bankwatch Network identified several shortcomings in the previous budgetary period that need to be addressed in the composition, rules and practices of these committees. In many cases, how these committees operate is not in line with the Code of Conduct on Partnership.

First, their composition are often not in line with the partnership principle, and the selection criteria of civil society representatives are not clear. NGOs are usually underrepresented, especially environmental ones, and this negates the importance of climate and biodiversity action and the share of spending earmarked for these areas. In addition, managing authorities have a dominating role in these committees, which is not balanced with any guarantees about the role of civil society partners in decision making process, creating a situation where the authorities effectively supervise themselves, and monitoring committees are used to rubber stamp decisions taken elsewhere.

Furthermore, monitoring committees are often seen by members as a formality where only general information is circulated. They often do not encourage real discussions that would lead to new approaches or plans. Experience shows that committee members have little influence on the actual implementation of the programmes, with only approval of progress reports. The efficiency of committees is therefore limited because too little time is available for the assessment of documents, not to mention consultation of these with their constituency.

Moreover, committees usually do not provide any financial or organisational support to their non-governmental members, which would enable meaningful participation by raising capacities. Such funds can for example support the organisation of public consultations or debates with experts from their constituency, so some are doing so at their own expense.

Most of these elements contradict the provisions of the code of conduct on partnership (please see more details in the Annex). In order to mitigate these impacts on the transparency and integrity of implementation of the Cohesion Policy and RRF, we recommend following action:

- Elaborate unified standards for monitoring committees for Cohesion Policy funds and the Recovery and Resilience Facility in close cooperation with SG RECOVER (as a recommendation for RRF), that include: composition, selection, functions and rules of procedure for the committees. The provisions of the European Code of Conduct on Partnership should serve as a baseline and strengthen the provisions further in line with the recommendations below, giving committees a clear, deliberative role and mechanism to ensure genuine involvement of stakeholders.
- Ensure independent selection procedures for NGO representatives. Based on Article 3 (2) of the code of conduct, where public authorities, economic and social partners, and bodies representing civil society have established an organisation or election/delegation system to facilitate their involvement in the partnership (umbrella organisation),

the representative nominated by the umbrella organisation shall be accepted as a representative.

- Ensure balanced representation of stakeholders by limiting a government's representation to below 50 per cent. Recommend to the Member States the following composition: a third each represented from 1. authorities of national and regional levels, 2. social and economic partners, business, academia, and 3. civil society, which would be in line with code of conduct on partnership and the common provisions regulation. While the regulation specifies that committees are to be chaired by a representative of the Member State or the managing authority, we recommend that the state create a committee presidium with a civil society representative.
- Ensure representation of environmental NGOs to reflect the significant share of spending on climate action, biodiversity conservation and do no significant harm principle in the current MFF.
- Ensure that, in accordance with Article 6 (2) of the common provisions regulation and Article 17 of the code of conduct, Member States allocate sufficient funding, as part of technical assistance or other instruments, for capacity building among partners, so that civil society representatives in the committees have organisational capacities to collect citizens feedback and consult expert opinions relevant to implementation of the EU funds.
- Recommend to develop proposals so as to ensure a unified minimum requirement from the code of conduct to the rules of procedure of committees regarding time to analyse, evaluate and consult documents.
- Encourage Member States to establish working groups within monitoring committees to develop framework documents, guides or any other documents that would support the implementation of the programmes on various aspects.

The new Cohesion programmes are already much delayed, but we are convinced that establishing strong checks on the newly established monitoring committees cannot come at the price of speeding up the spending.

We ask the European Commission to take necessary action to strengthen transparency and integrity of EU funds spending by ensuring the proper functioning of monitoring committees across Europe. We remain on your disposal for further discussion on the recommendation.

Kind regards,

CEE BANKWATCH NETWORK

Annex. Shortcomings and recommendations for EU Funds Monitoring Committees

Problems identified	Examples	Recommendations
<p>No clear requirement to establish monitoring committees within the RRF.</p> <p>Existing national plans to create a monitoring platform for RRF usually gives little space for NGOs</p>	<p>Hungary: members of the monitoring committee for the RRP were picked by the government and even though environmental NGOs demanded an opportunity for the “green parliament” (assembly of environmental NGOs) to delegate a member, they have been rejected by the government</p> <p>Poland: monitoring committee for the RRP, like for Cohesion Policy programmes, is described in the Implementation Law for Cohesion Policy Funds for 2021-2027 but in a “hidden” part (in art. 108 - amendments to other laws) - art. 14lk and contains different provisions than in other committees. Guarantees for independence of the committees are therefore weakened while the role of the minister responsible for development funds is strengthened.</p> <p>Latvia: a monitoring committee should be put in place but it was not included in the law implementing the recovery plan and its initially proposed composition is insufficient, comprising only national bodies with no civil society representatives</p> <p>Slovakia: a monitoring committee is not mentioned in the system of implementation of the Recovery and Resilience Plan draft. A governmental council for the national plan is there, but it might not be ideal as the governmental council for European Green Deal is not functioning correctly. The system of implementation also mentions a strategic council for implementation, with nominated ‘persons with significant social status’, and a coordination platform. But civil society is not</p>	<p>Elaborate unified standards for Monitoring Committees for Cohesion Policy funds and the Recovery and Resilience Facility in close cooperation with SG RECOVER (as a recommendation for RRF funds), covering: the composition, selection, function and rules of procedure. Use the provisions of the European Code of Conduct on Partnership as a baseline and possibly strengthen the provisions further, allowing committees a clear deliberative role and mechanism to ensure the genuine involvement of stakeholders.</p>

	mentioned in any tool or paragraph of the whole system of implementation of the recovery plan.	
Monitoring committees composition not in line with the partnership principle, resulting in a situation in which the authorities effectively supervise themselves, undermining the idea of transparency and effective monitoring of EU funds spending	Poland: while rule from the previous MFF (2014-2020) period assigning just one third of seats to partners from outside the public administration was not adopted, the current draft implementation law offers no guarantee at all for independent representation of civil society in the committees (only a vague reference to code of conduct art. 4.1 - on identification of partners), which is a clear violation of common provisions regulation and code of conduct . The recommendations provided by civil society mechanism were ignored: .	Ensure balanced representation of stakeholders by limiting a government's representation to below 50 per cent. Recommend to a state the following composition: one third representation per authorities of national and regional levels, social and economic partners, business, academia, and civil society. This is in line with Code of Conduct on Partnership and the Cohesion Policy recommendation . While the regulation specifies that committees are to be chaired by a representative of the Member State or the managing authority, we recommend that a member state create a presidium with a civil society representative.
Selection criteria of civil society representatives are not clear. Environmental NGO representation is not guaranteed on a level that reflects the importance of climate action and the share of spending earmarked for climate	Poland: rules for the appointment of NGO representatives are unclear (elections among organisations are not obligatory). NGO representatives are to be selected by national and regional councils on Public Benefit Activity, advisory bodies to the public authorities on the central and regional levels (art. 18). In case the councils' choice do not meet the expectations of a managing institution, it has a right to hand pick civil society representatives. NGOs, even large, national federations , have no guarantee that they can delegate their representatives to the committees, although businesses or urban associations and trade unions have this right. This includes NGOs specialised in horizontal principles, like the Charter of Fundamental Rights or do no significant harm principle . In many cases, only few green NGOs are part of Monitoring Committees (in Latvia, only two green NGOs out of 58 members, or in Czechia, only one for a committee of 30 organisations). Managing authorities should strive to ensure a higher representativeness of civil society organisations with expertise on climate, biodiversity and other Green Deal objectives.	Ensure an independent selection procedure of NGO representatives. Based on Article 3 (2) of the ECCP, where public authorities, economic and social partners, and bodies representing civil society have established an organisation or election/delegation system to facilitate their involvement in the partnership (umbrella organisation), the representative nominated by the umbrella organisation shall be accepted as a representative. Ensure representation of environmental NGOs that reflects the significant share of spending on climate action in the current MFF.

<p>Limited functions and efficiency of monitoring committees</p>	<p>Poland: a separate committee for the Partnership Agreement was not prescribed in the draft implementation law, only in the agreement itself. It could play an important role in overseeing implementation of the Cohesion Policy programmes on the national level, and CSOs prepared recommendations on its composition and functioning aimed at increasing its efficiency, but the implementation law did not respond to these. Also, committee members representing civil society are effectively denied the possibility to commission expert analyses, because commissioning them basing on the Public Procurement Act requires submitting proposals to the public procurement plan prepared in second half of the previous year and the law bans commissioning analyses from experts from NGOs. Analyses must be commissioned from law firms or others, chosen by the managing authority. Therefore, in order to receive a timely and independent analysis, committee members use other sources of funding (e.g. Norwegian funds) which creates a negative image of EU funds as not accessible. Technical assistance funds were only used a few times for the preparation of expert analyses in the previous period of 2014-2020.</p>	<p>Ensure that, in accordance with Article 6 (2) of the CPR and Article 17 of the ECCP, Member States allocate sufficient funding, as part of technical assistance or other instruments, for capacity building among partners, so that civil society representatives in the committees have organisational and financial capacities.</p>
<p>Capacity building measures rarely provided for members representing civil society partners</p>	<p>Slovakia: the committee for the 2014-2020 period worked in a formalistic way, primarily to avoid decommitments. Regrettably, faster and easier spending was prioritised, and environmental and social incentives were sidelined to the minimum required by the Commission. On the other hand, ministries create working groups under committees to discuss issues like green infrastructure for anti-flood measures.</p>	<p>Recommend proposals so as to ensure unified minimum requirements from the code of conduct to rules of procedure of committees regarding the time allocated to analyse, evaluate and consult documents .</p> <p>Encourage Member States to establish working groups within monitoring committees to develop framework documents, guides or any other documents that would support the implementation of the programmes on various aspects.</p>