

Position Paper of REGLEG on the European Code of Conduct on Partnership

REGLEG welcomes the early publication of the Commission Staff Working Document “The partnership principle in the implementation of the Common Strategic Framework Funds - elements for a European Code of Conduct on Partnership” SWD(2012) 106 final. In general REGLEG is in favour of the elements the Commission proposes for designing partnership contracts and programmes. They will be successful if the regions and if appropriate other relevant actors are involved from the beginning on. The acknowledgement of this fact by the European Commission by at the same time referring to the individual institutional framework of each member state in the working document on the European Code of Conduct on Partnership has to guarantee the respect of the principles stated in the EU-Treaties on national identity and subsidiarity as well as proportionality.

1) General Remarks

The past and experience have shown that the inclusion of relevant partners at an early stage is a key requirement for developing an effective Cohesion policy if the interests of all parties concerned are duly respected. Especially the participation and cooperation of the regional level and – where appropriate and necessary – local and urban authorities – in all stages of preparing the future policy at national and EU-level is a key requirement for a well balanced policy delivering results. It goes without saying that such an approach need to be in line with the political and constitutional fundamental structure of each member state.

2) Public Authorities and the Partnership Contract

Regional, local, and urban authorities are in a different position in comparison with social partners or bodies representing civil society. Regions with legislative powers have democratically and directly elected assemblies and their governments are responsible towards these assemblies. Especially regions with legislative powers have often the primary responsibility in the field of Cohesion Policy as they run the operational programmes.

REGLEG therefore welcomes the intention of the European Commission in art 5 para 1 CPR¹ to include the competent regional authorities from the beginning on in the process of developing the Partnership Contract in a Member State. In federalized and regionalised Member States with regions with legislative powers they will be indispensable partners for their national governments in preparing this key document for the period 2014 – 2020.

For Member States, regions and other public authorities it is natural to cooperate with the other partners mentioned in para 1 lit (b) and (c) CPR. Nonetheless REGLEG underlines that a very general obligation to include them in all phases of the process (preparation, implementation, monitoring, and evaluation) as well as their obligatory participation in the

¹ Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1083/2006, abbreviated in this text CPR.

monitoring committees of operational programmes may create additional burdens and legal problems. A mandatory inclusion of other partners in the process of developing and preparation of the Partnership Contracts may also contravene national liability systems, as these partners are in the end not liable and responsible for the content included. It should also be clarified that this obligation can just refer to concerned and relevant bodies. The examples of good practice in the Working Document give an overview of the variety of possible solutions in the different Member States and ask for a continuation of a well balanced individual approach.

3) European Code of Conduct on Partnership:

REGLEG doubts that there is a need for a delegated act laying down minimum requirements. The EU-Treaties enshrine the principles of respect of the national identities of the Member States inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government (Art 4 para 2) and the principle of subsidiarity (Art 5 para 1 and 3) as well as proportionality (Art 5 para 4). Any delegated act has therefore to comply with the legal systems of the European Union and their Member States.

The European Code of Conduct on Partnership (ECCP) as a delegated act based on art 5 para 3 CPR may conflict with these Treaty principles.

Member States are recommended to identify in their national context the relevant partners. It will be hard to reconcile this with a uniform delegated act adopted by the European Commission, covering all Member States. Relations inside member States between the different levels – national, regional, and local – are part of their fundamental constitutional structure, obligations may collide with these principles.

In accordance with the principles of subsidiarity and proportionality Member States and their regions are in the best position to decide on possible partners in the field of Cohesion Policy. The Working Document with its careful and cautious wording seems to be very much aware of these possible conflicts. Also when taking into account that it is not a draft delegated act it reads more like a non binding communication or recommendation giving guidance with a lot of examples of good practices from Member States.

In addition REGLEG underlines a problem of timing. A possible delegated act can be adopted as soon as the CPR enters into force. This will hopefully be early in 2013. Preparations in the Member States and regions for the Partnership Contracts and operational programmes have already started and are under way. For a real partnership enough time is always the crucial factor – cooperation and coordination need a realistic timeframe. A delegated act defining the ECCP will be too late in any case for these important phases of preparation already under way in the Member States and regions. In cases where there is a real necessity for delegated acts the European Commission therefore should consider publishing drafts of delegated acts as early as possible.

REGLEG

REGLEG, the Conference of regions with Legislative Power, is a network bringing together the regions with legislative power within the European Union. Regions with legislative power have their own governments and parliaments. They have often comparable responsibilities to those of Member States within their areas of competence.

Regions with legislative power exist in Belgium, Germany, Austria, Italy, Spain, Portugal, Finland and the United Kingdom. In 2010, the cumulative budget of all regions with legislative powers reached more than 800 billion.

Among the regions of the network, 20 form the Coordination Committee (CoCo). The CoCo provides a framework for discussion on policy ideas, drafting reports and statements, information exchange, communication, policy development and other related activities such as the organization of conferences, and forming of sub-groups on areas of specific interest to some or all of its members. The political decision making body is the Presidency Conference.

2012 Vienna holds the presidency of REGLEG.