

DIRECTORATE-GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT **B**
STRUCTURAL AND COHESION POLICIES

Agriculture and Rural Development

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**The Partnership Contracts –
how to implement
multilevel governance and
to guarantee the flexibility of
Cohesion Policy**

NOTE



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REGIONAL DEVELOPMENT

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how to implement multilevel governance
and to guarantee the flexibility of
Cohesion Policy**

NOTE

This document was requested by the European Parliament's Committee on Regional Development.

AUTHORS

Metis GmbH: Jürgen Pucher, Isabel Naylor, Andreas Resch

RESPONSIBLE ADMINISTRATOR

Marek Kołodziejski
Policy Department Structural and Cohesion Policies
European Parliament
B-1047 Brussels
E-mail: poldep-cohesion@europarl.europa.eu

EDITORIAL ASSISTANCE

Lea Poljančič

LINGUISTIC VERSIONS

Original: EN

ABOUT THE PUBLISHER

To contact the Policy Department or to subscribe to its monthly newsletter please write to:
poldep-cohesion@europarl.europa.eu

Manuscript completed in May 2012.
Brussels, © European Union, 2012.

This document is available on the Internet at:
<http://www.europarl.europa.eu/studies>

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Abstract:

This briefing note presents an analysis of how the Partnership Contracts for the funding period 2014-2020 can be implemented regarding issues of multilevel governance and how the flexibility in the EU Cohesion Policy can be guaranteed. The note examines the following: an analysis of the Draft Regulation proposed by the European Commission; experiences from the current period regarding multilevel governance and partnership in programming; and experiences from the current period regarding policy coordination. The synthesis of the above analytical steps provides a risk assessment related to possible interpretations of the Partnership Contract.

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LIST OF ABBREVIATIONS

- CBC** Cross-Border Cooperation
- CF** Cohesion Fund
- CSF** Common Strategic Framework (2014-2020)
- CSG** Community Strategic Guidelines (2007-2013)
- CSO** Civil Society Organisation
- CONV** Convergence Objective (EU Cohesion Policy)
- EC** European Commission
- EIB** European Investment Bank
- EP** European Parliament
- ERDF** European Regional Development Fund
- ESF** European Social Fund
- ESM** European Stability Mechanism
- ETC** European Territorial Cooperation (EU Cohesion Policy)
- EU** European Union
- EU-12** 10 Member States since 2004 plus Bulgaria and Romania since 2007
- EU-15** EU Member States before the 2004 enlargement
- FLC** First Level Control; i.e. the Financial Control according to ERDF-Regulation (EC) 1080/2006 which is in charge of 100% control of expenditures within a project
- ITI** Integrated Territorial Investment (Article 99, Draft General Regulation) – could be considered as a cross-programme investment priority
- LAG** Local Action Groups (key specificity of the Leader-type actions in EAFRD)

- LRA** Local and Regional Authorities
- MA** Managing Authority
- MCC** The Management and Coordination Committee (Czech Republic)
- MLG** Multilevel Governance
- MS** Member State
- NGO** Non-Governmental Organisation
- NSRF** National Strategic Reference Framework
- OP** Operational Programme
- PC** Partnership Contract
- PMC** Project Management Cycle
- RDTI** Research, Development, Technology, Innovation
- SF** Structural Funds
- SME** Small and Medium Enterprise
- TA** Technical Assistance; priority in each Operational Programme which is reserved for programme implementation, monitoring and control etc.

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EXECUTIVE SUMMARY

The programming process for the period 2014-2020 foresees – according to the Draft Regulations – two major new elements: the Common Strategic Framework and the Partnership Contract. Both documents aim at a more effective policy coordination between the Member States and the European Commission.

This study focuses on the Partnership Contract with special reference to multilevel governance and flexibility within the EU Cohesion Policy.

The Partnership Contract will replace the National Strategic Reference Framework. Thus the current National Strategic Reference Frameworks have to be considered as one major point of departure in carrying out a prospective assessment of the Partnership Contracts 2014-2020. The study rests on four pillars:

- an **analysis of the draft regulation**: a critical appraisal of the intended content of the Partnership Contract (with a view to the dimension of flexibility) and the timelines envisaged;
- **experiences** from the current period **related to multilevel governance and partnership** in programming: examples of the integration of the wider partnership consultation in the current period (desk review based on NSRF);
- **experiences** from the current period **related to policy coordination** (desk research based on studies);
- a **synthesis of the above considerations**.

The analysis of the Draft Regulation points at the following major additional requirements for the period 2014-2020 as compared to the current period:

- an **integrated approach on territorial development as well as for the regions most affected by poverty** – both without presenting indicative financial allocations;
- a **summary assessment of the fulfilment of the ex-ante conditionalities**: the ex-ante conditionalities refer to the need for a number of strategies and plans on major EU Cohesion Policy issues and explicit statement towards the actions taken to comply with major EU Directives.

Regarding partnership-building as a key principle for programming and implementation of Cohesion Policy, the impact so far is limited: in the current and previous funding periods the authorities perceive partnership as more or less problematic. It is often seen as time consuming and requiring extra-effort without adding value. From a critical perspective issues like the lack of guidelines, conflicts of interest and the often constrained position of local and regional authorities have to be taken into account when considering partnership in the programming procedure.

The involvement of local and regional authorities will largely depend on three factors: first, whether a Member State's political-administrative system is centralised or decentralised; second, whether systems of fiscal equalisation are in place, thus defining the financing capacity of each tier; and third, the overall financial significance of EU funds for the respective State.

Partnership, as an integrated element of programming, could add substantial benefits like improved legitimization, target-orientation, policy coordination and empowerment of key actors. In order to anchor the principle of partnership more firmly in the Cohesion Policy we recommend a focus on capacity building within the administrations and a comprehensive communication strategy, as well as the strengthening of intermediaries such as regional development agencies.

When considering the Partnership Contract from the perspective of flexibility the character of interventions and the provisions for change management are important aspects. There should be a balance between the added-value of a longer-term commitment resting on a more or less binding plan and the need for change management without disproportionate administrative burdens. Regarding change management two different cases should be considered:

- changes emanating from a Member State: these will be mostly due to changes of programmes. In such cases we propose that the Commission should be notified with a proper justification but that the change procedure related to the Contract should be treated as part of the compulsory progress monitoring in 2017 and 2019;
- changes emanating from the Commission due to macro-economic imbalances: these provisions in the Draft Regulation are viewed critically by the Member States and will most likely not be an element of the final Regulation but still – as has shown the recent case of Cohesion Fund in Hungary – this will become a substantial issue for Cohesion Policy (since one cannot expect that the fundamental principle of additionality will be softened in the period 2014-2020).

The differences in negotiating and decision-making procedures, the weight of EU-funding in Cohesion Policy and the political-administrative system determine the **approach to the development of the Partnership Contract**. Three different models, which illustrate the range of different approaches across the Member States, have been identified:

- the Contract is a “common roof” strategy with major elements being developed at the level of programming authorities: the apparent challenge for the coordinating body is to construct the Partnership Contract as an overarching framework for all Operational Programmes thereby respecting the need for consistency, coherence and thematic concentration. This approach is most likely to be applied in Member States with rather centralised administration and substantial funding from CSF funds.
- the Contract subsumes a distinct strategy for a rather narrowly defined set of interventions financed from EU Cohesion Policy: the obvious challenge in programming is to negotiate those intervention areas where EU-funding should play a role. This approach reflects the reality of Member States which finance Cohesion Policy largely from national sources.
- the Contract is the ultimate and comprehensive national development programme: the development of the strategy requires a strong top-down element, i.e. a strong coordinating body equipped with substantial powers which must be close to the government. Cross-sector negotiations for a framework which exceed regular cycles in politics pose an obvious challenge. Such an approach might be a feasible option for small centralised Member States.

An assessment of the **scope** of the Partnership Contract along its three major sections points rather towards the recommendation that the benefits of a strong multi-annual strategic agreement outweigh the challenges and risks. A major argument is that cross-

sector policy coordination is the crucial point in Cohesion Policy. If not required by the Commission from the very start – as the underlying challenge in the Partnership Contract - the coordination process will tend to lack momentum and commitment. The key positions for the three major sub-sections of the Partnership Contract are:

- the strategy, thematic objectives and indicative financial allocations as well as the list of Programmes: this is a crucial element and the Commission will not accept a Contract or Agreement without the core piece of a binding financial agreement (given the financial volumes involved!);
- the strategy for integrated approaches to territorial development and for regions most affected by poverty: this might find a different place but one has to be aware that it summarises valuable elements with a view to environmental and social sustainability of Cohesion Policy;
- the implementation arrangements for an effective and efficient implementation: which is again a crucial element and a strong commitment should be asked from the Member States.

Timing is another challenge in the programming process. According to the Draft General Regulation the Partnership Contract has to be delivered within three months after the adoption of the CSF. The Commission then has three months for revision and in total the adoption procedure should not take longer than six months starting from the delivery of the Contract to the Commission.

The whole setting and the rather tight timelines make quite clear that in practice the programming task has to be a rolling procedure – programmes have to be developed in parallel to the Partnership Contract and process management and coordination mechanisms will be essential to meet the timelines.

INTRODUCTION

According to the draft regulations the programming process for the period 2014-2020 foresees two major new elements:

- The **Common Strategic Framework** (CSF) at Union level which is intended as the overarching strategic guidance for the period 2014-2020 (hereafter referred to as 2014+) and should replace the large number of guidelines which marked the programming process of the current period.
- The **Partnership Contract** (PC) at national level which is proposed by the Member State (MS) and is subject to approval by the Commission. In the current period the overarching guidance document at MS level is the National Strategic Reference Framework (NSRF).

The main aim of both documents is the effective coordination of policy instruments thereby ensuring a solid commitment to a sustained performance from both parties, i.e. MS and European Commission (EC).

From a MS perspective the Partnership Contract is probably perceived as the most challenging milestone in the process of programming the period 2014+ as it requires more substantiated elements of policy coordination, compared to the NSRF in the current period, in many respects:

- first of all it has to be submitted together with the programmes;¹
- this should happen within three months after approval of the CSF;²
- the Contract³ should include numerous provisions which represent the result of a fairly comprehensive policy coordination, such as the consolidated performance framework⁴, an ex-ante verification of the additionality principle, integrated approaches to territorial development as well as in support of geographical regions with the highest levels of poverty, the main results and financial allocations according to thematic objectives, and an assessment regarding the fulfilment of ex-ante conditionalities.

The briefing note covers the following:

- **An analysis of the draft regulation:** a critical appraisal of the intended contents of the Partnership Contract (with special attention to the dimension of flexibility and the timelines envisaged).

¹ Except for the ETC programmes which can be delivered later due to the need for negotiations with neighbouring countries [(Cross-Border Cooperation (CBC)) respectively groups of countries (Transnational Cooperation)]

² European Commission (2011), *Proposal for a Regulation of the European Parliament and of the Council of 6 October 2011 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, 2011/0276 (COD)*, Brussels

³ European Commission (2011), Article 14 of the Draft General Regulation

⁴ European Commission (2011), Annex 1 of the Draft General Regulation: a set of performance indicators (financial and output indicators and finally also result indicators to be defined at priority level) defining milestones for 2016 and 2018 and target 2022

- **Experiences** from the current period **related to multilevel governance** and partnership in programming: examples of the integration of the wider partnership consultation in the current period (desk review based on NSRF).
- **Experiences** from the current period **related to policy coordination** (desk research based on studies).

The synthesis of these analytical steps is a **risk assessment related to possible interpretations of the Partnership Contract**. The requirements of the Partnership Contract are comprehensive and entail quite complex mechanisms of policy coordination and strategy building. The time schedule represents a general risk, since the quality of the underlying coordination processes could be affected by time constraints. Moreover, the document could be considered as the ultimate goal instead of initiating a process of sustained cross-sector coordination and this, in turn, might have a serious impact on the commitment to policy targets.

In addition to all the risks inherent to such a document it is also important to see the benefits of a strong and binding commitment to longer-term policy goals and strengthened coordination mechanisms. Thus all major current elements of the Partnership Contract arguments will be analysed with a view to the following aspects:

- making it part of a strategy document which is not subject to approval by the Commission or
- leaving it in the Partnership Contract.

1. THE PARTNERSHIP CONTRACT 2014-2020

KEY FINDINGS

- The Partnership Contract will replace the National Strategic Reference Framework (NSRF). The current NSRF is of importance in assessing the contents of the PC and should be considered as a reference point regarding the challenges in the elaboration process of the Partnership Contract.
- When comparing the proposed Partnership Contract with the NSRF, the major additional requirements are the integrated approaches regarding territorial development and regions most affected by poverty, plus the introduction of ex-ante conditionalities.

Article 14 of the Draft General Regulation lists the contents envisaged for the Partnership Contract. As a first step, all currently intended elements of the Contract will be assessed against the following questions:

- their place in the current period, i.e. mainly whether these elements have been required also for the NSRF;
- their major implications for programming work and policy coordination;
- their relevance in terms of flexibility and partnership.

The Partnership Contract for 2014-2020 will replace the National Strategic Reference Framework (NSRF)⁵ of the current period. Thus the current NSRF is a major point of reference for assessing firstly the contents of the Contracts in the period 2014-2020 and secondly for the underlying challenges in the elaboration process.

The Partnership Contract should include a number of major elements which are not part of the NSRF:

- **an integrated approach to territorial development**⁶ - in the current NSRF a descriptive strategy outline without presenting financial allocations is required;
- **an integrated approach for the regions most affected by poverty** – including indicative financial allocations;
- **a summary assessment of the fulfilment of the ex-ante conditionalities:** the ex-ante conditionalities refer to the need for a number of strategies and plans on major issues linked to Cohesion Policy implementation, as well as explicit statements towards the actions taken to comply with major EU Directives.

In terms of underlying administrative requirements, the last point concerning compliance with ex-ante conditionalities, is the most demanding one in terms of policy coordination.

⁵ European Commission (2006), Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999, Brussels, Articles 27 (Content), 28 (Preparation and Adoption) and 30 (Strategic follow-up).

⁶ According to Reg. (EU) 1083/2006 the inclusion of actions for sustainable urban development and the diversification of rural economies was a non-compulsory element of the NSRF

Table 1: Appraisal of the Contents of the Partnership Contract 2014+**Sub-table 1: Strategy**

ELEMENT ⁷	POSITION IN THE CURRENT PERIOD (2007-2013)	MAJOR IMPLICATION FOR PROGRAMMING AND IMPLEMENTATION (ALSO WITH A VIEW TO FLEXIBILITY, PARTNERSHIP, MULTILEVEL GOVERNANCE)
Arrangements to ensure alignment with the Union strategy for smart, sustainable and inclusive growth		
An analysis of disparities and development needs with reference to the thematic objectives and key actions defined in the CSF	NSRF	Standard task in programming Definition of a shared point of reference is a crucial input in order to involve a broader number of stakeholders (important element to make the rather technical programme parts understandable for a wider audience) Neutral for flexibility
A summary analysis of the ex ante evaluations of the programmes justifying the selection of the thematic objectives and the indicative allocations of the CSF Funds	No compulsory requirement in the current period	No particular challenge (it could turn into a minor challenge for the overall timing since the synthesis of evaluations can only be done efficiently when all draft reports are ready) Neutral for flexibility
For each thematic objective, a summary of the main results expected for each of the CSF Funds	NSRF	No particular challenge in cases that the Operational Programmes have reached the draft final stage Important for monitoring, evaluation and reporting (key requirement)
The indicative allocation of support by the Union by thematic objective at national level for each of the CSF Funds, as well as the total indicative allocation for climate change objectives	NSRF: Strategic priorities for each Fund linked to the objectives of the Community Strategic Guidelines (CSGs)	Allocation to thematic objectives is a new element Easily implemented in cases that the Operational Programmes have reached the draft final stage
The main priority areas for cooperation, taking into account, where appropriate, of macro-regional and sea basin strategies	No compulsory requirement for the NSRF, many MS did not include ETC in the NSRF	Could be tricky with a view to flexibility in the programming process: according to practitioners the descriptive approach has to be rather vague since there must be a certain flexibility for alignment of different national perspectives in the negotiation procedures with the neighbouring MS (in case of CBC) or groups of MS in case of transnational programmes
Horizontal principles and policy objectives for the implementation of the CSF Funds	General principle in Regulation 1083/2006 ⁸	Focus on equality between men and women, non-discrimination as well as environmental sustainability

⁷ Texts from the Draft General Regulation; partly abridged or wording simplified; bold sections refer to the headers in the Draft General Regulation; the table shows then all elements in detail as stipulated in the Regulation

ELEMENT ⁷	POSITION IN THE CURRENT PERIOD (2007-2013)	MAJOR IMPLICATION FOR PROGRAMMING AND IMPLEMENTATION (ALSO WITH A VIEW TO FLEXIBILITY, PARTNERSHIP, MULTILEVEL GOVERNANCE)
The list of the programmes and annual allocations under the CSF funds the CF, except those under ETC	NSRF	Easily implemented in cases that the Operational Programmes have reached the draft final stage Key requirement of the Commission

Sub-table 2: Strategy for integrated approaches

ELEMENT	POSITION IN THE CURRENT PERIOD (2007-2013)	MAJOR IMPLICATION FOR PROGRAMMING AND IMPLEMENTATION
An integrated approach to territorial development supported by the CSF		In general this approach supports all intents to strengthen partnerships and multilevel governance (MLG)
The mechanisms at national and regional level that ensure coordination between the CSF Funds and other Union and national funding instruments and with the EIB	Key element of NSRF for MS which receive CF; de-facto mostly coordination committees	Key milestone – open as to whether strategic, operational or binding coordination arrangements should be envisaged Does not decrease the flexibility Key requirement to ensure quality of implementation
The arrangements to ensure an integrated approach to the use of the CSF Funds for the territorial development, in particular the implementation arrangements for community-led local development, local development strategies and integrated territorial investments (ITIs) and sustainable urban development through ITIs	No explicit requirement in the current period	This is a consequence of mainstreaming the major elements of Community Policies ⁹ which have emerged from former Community Initiatives in the 2000-2006 period such as Leader, Urban, Equal and the TEPs A quality approach to implementation is a challenging venture but for sure these are the more open approaches in Cohesion Policy with a higher degree of flexibility as to the character of interventions and an implicit focus on partnership (Local Action Groups (LAGs) etc.)
An integrated approach to address the specific needs of regions (areas) most affected by poverty or of target groups at highest risk of discrimination or exclusion, with special regard to marginalised communities, including the indicative financial allocations	No explicit requirement in the current period	Brings about a new horizontal perspective and in particular it could involve new institutional partners in the consultation process The regions with the most pressing social issues tend also to be those where deficiencies in infrastructure are prevalent

⁸ See Regulation (EU) 1083/2006 Articles 16 and 17: the principle of gender equality and non-discrimination should be observed at all stages of implementation respectively *the objectives of Funds should be pursued in the framework of environmental sustainability.*

⁹ The policy rationales of former Community Initiatives such as Leader, Equal or Urban have often been perceived as a major value added of EU Cohesion Policy as compared to national policy approaches (in particular due to their cross-sector approach but in case of Leader also due to the partnership approach)

Sub-table 3: Implementation arrangements

ELEMENT	POSITION IN THE CURRENT PERIOD (2007-2013)	MAJOR IMPLICATION FOR PROGRAMMING AND IMPLEMENTATION
Arrangements to ensure effective implementation		When it comes to implementation the potential conflicts between flexibility and commitment become obvious: on the one hand a binding commitment to quantified financial targets and outputs implies a lower degree of flexibility when it comes to interventions; on the other hand this is the essence of a contract understood as a binding (financial) agreement between two parties
A consolidated table of milestones and targets established in programmes for the performance framework	No explicit requirement in the NSRF	Definition of a consistent cross-programme framework of key indicators; particularly challenging for the ERDF ¹⁰ as the largest fund with the broadest portfolio Pre-condition for substantiated quantitative reporting – key requirement of the Commission
Together with the methodology and mechanism to ensure consistency across programmes and CSF Funds	NSFR - compulsory for MS which receive CF; voluntary for others	Mechanisms to ensure consistency across programmes are an evident requirement but pose a multiple challenge: such provisions should include the definition of demarcation lines between OPs, adjustment of eligibility rules across funds, shared standards in project assessment mechanisms to exclude double-financing etc. Soundly working coordination mechanism will rather increase the commitment of all actors thus rather favouring a tendency towards greater flexibility Obvious key requirement of the Commission – now compulsory for all MS
A summary of the assessment of the fulfilment of ex ante conditionalities and of the actions to be taken at national and regional level, and the timetable for their implementation, where ex ante conditionalities are not fulfilled	No requirement in this period	The ex-ante conditionalities represent quite a critical element due to the numerous strategies and plans included! New element in order to ensure improved consistency and effectiveness of policies Thematic ex-ante conditionalities refer to the need for comprehensive and consistent national strategies or action plans for all key topics of Cohesion Policy ¹¹ - which is de-facto a prerequisite for targeted policies

¹⁰ E.g. in contrast to the EARDF where indicators are largely standardised or to the ESF where also a certain degree of standardisation has been reached

¹¹ European Commission (2011), According to Annex IV of Draft General Regulation comprising a national RDTI strategy, national NGA Plan (broadband), enforcement of the Small Business Act (SBA), requirements for energy-efficient buildings, National renewable energy plans, Risk assessment for climate change, Plan for Environmental Infrastructure Investment (Water, Waste), comprehensive National Transport Plan, capacity-building for Public Employment Services (PES), comprehensive strategy for self employment, strategy to reduce Early School Leaving (ESL), Policy Framework for Life Long Learning (LLL), National Strategy for Poverty Reduction, Strategy to reinforce administrative capacity

ELEMENT	POSITION IN THE CURRENT PERIOD (2007-2013)	MAJOR IMPLICATION FOR PROGRAMMING AND IMPLEMENTATION
		General ex-ante conditionalities refer to evidence for substantiated national efforts towards key directives ¹² and objectives Option for a grace period of two years if not all conditionalities are met at the time of submission of the Contract
Information required for ex ante verification of compliance with the rules on additionality	NSRF	Technical task strongly linked to budget data – but in the end it has a strong implication since it is a longer-term budgetary commitment. Due to the increasing importance of macro-economic stability the monitoring of economic data will become increasingly important and thus implicitly also the control of compliance with the rules on additionality. Key requirement of the Commission
The actions taken to involve the partners and their role in the preparation of the Partnership Contract and the progress reports in 2017 and 2019	Regulation 1083/2006, Article 29 – concise reports in 2009 and 2012	Involvement of partners in progress reporting is a new requirement!
Arrangements to ensure efficient implementation of the CSF Funds		
An assessment of whether there is a need to reinforce the administrative capacity of the authorities and, where appropriate, beneficiaries, and actions to be taken for this purpose	NSRF Should have included the element of capacity building in line with CSGs	One of the key issues to ensure customer-friendly, quick and transparent procedures to raise the attractiveness of the funding opportunities; however a serious stock-taking might be impaired due to conflict of competencies ¹³
A summary of the actions planned and corresponding targets in the programmes to achieve a reduction in the administrative burden for beneficiaries	No explicit requirement in the current period	New requirement following the strive for simplification Positive for the attractiveness of EU-Funds (in particular in EU-15 with lower funding rates)
An assessment of the existing systems for electronic data exchange	NSRF	Routine task without any major implications for partnership during programming process or the overall flexibility of Cohesion Policy; such systems are in place already since it is also a key requirement in the current period Key requirement of the Commission

¹² Non-discrimination (EU Directives 2000/78/EC and 2000/43/EC), Public Procurement (Directives 2004/18/EC and 2004/17/EC), Strategic Environmental Assessment (SEA) and Environmental Impact Assessment (EIA) (Directive 2001/42/EC); Strategy for the promotion of equality between men and women, mechanisms for the implementation of state aid rules, plan and statistical system to collect data to measure impact of programmes

¹³ Capacity constraints or a lack of staff might be clearly visible from the perspective of the national coordination authority but still it might be impossible to initiate or even enforce corrective actions such as training or other types of capacity-building owing to the overarching principles of coordination within the administration

2. PARTNERSHIP IN PROGRAMMING OF EU COHESION POLICY

KEY FINDINGS

- In the current and previous funding periods programming authorities tend to perceive Partnership as problematic. They often see it as time consuming and requiring extra effort without adding value.
- Several NSRFs reveal issues like a general tendency to have inter-ministerial core groups engaging in intensive work on technical-administrative aspects but implicitly taking also far reaching decisions on the content of OPs. NSRFs frequently refer to partnership in the programming process but less so in implementation, and in several cases existing vehicles for wider consultation have been used. The role of NGOs in some cases is considered as problematic.
- The involvement of local and regional authorities will largely depend on three factors: first, on whether the MS's political-administrative system is centralised or decentralised; second, on whether fiscal equalisation systems are in place (thus defining the financing capacity of each tier); and third, on the overall significance of EU funds for the particular MS.
- From a critical perspective one has to consider issues like the lack of guidelines and clear definitions as regards the process of partnership-building; moreover conflicts of interest or the often constrained position of local and regional authorities have to be taken into account when considering partnership in the programming procedure.
- Partnership as an integrated element of programming could bring benefits like improved legitimation, improved target-orientation, improved policy coordination and empowerment and capacity-building for key actors.
- In order to anchor the principle of partnership more firmly in the Cohesion Policy we recommend a focus on capacity building within the administrations and a comprehensive communication strategy as well as the strengthening of intermediaries such as regional development agencies.

In Cohesion Policy partnership is often considered as a crucial element of multilevel governance (MLG).¹⁴ The notion of partnership has been widened continuously starting from its introduction in 1988¹⁵, to the reform in 1993¹⁶, to the requirement included in the Draft General Regulation for the period 2014+:

“For the Partnership Contract and each programme respectively, a Member State should organise a partnership with the representatives of competent regional, local, urban and other public authorities, economic and social partners, and bodies representing civil society, including environmental partners, non-governmental organisations, and bodies responsible for promoting equality and non-discrimination. The purpose of such a partnership is to

¹⁴ Hristova-Kurzydowski D. (2012), *The Principle of Partnership in Bulgaria: Application and Challenges*, CRCEES WP2012/01, Working Paper Series, submitted by the Centre for Russian, Central and East European Studies, University of Glasgow

¹⁵ Council of the European Communities (1988), *Council Regulation (EEC) No 4254/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the European Regional Development Fund*, Brussels

¹⁶ European Commission (1993), *Council Regulation (EEC) 2083/93 adding economic and social partners*, Brussels

respect the principle of multilevel governance, ensure the ownership of planned interventions by stakeholders and build on the experience and know-how of relevant actors. The Commission should be empowered to adopt delegated acts providing for a code of conduct in order to ensure that partners are involved in the preparation, implementation, monitoring and evaluation of Partnership Contracts and programmes in a consistent manner".¹⁷

The experience in the current and previous funding periods shows that the authorities in charge of programming perceive partnership-building in programming as a problem: it is often seen as time consuming requiring extra effort without adding value and, hence, moreover is frequently run as a mostly formalised exercise. In several countries, the practice during programming for the current period fell far short from the standards envisaged in the Draft General Regulation.

2.1. The notion of partnership in NSRFs 2007-2013

A quick review of the partnership-building process in the course of the elaboration of several of the National Strategic Reference Frameworks reveals the following issues:

- a general tendency can be observed with an inter-ministerial core group engaging in intensive work on the elaboration of the technical-administrative content of the programme, which implicitly also takes quite far-reaching decisions related to the contents of the programmes. At certain intervals a wider audience is consulted and as the elaboration process progresses, the format changes from rather open meetings to more structured ones dealing with pre-defined contents;
- the NSRFs refer most frequently to partnership in the programming process, while partnership during implementation is less of an issue;
- in several cases existing vehicles for wider consultation have been used – which is, on the one hand, understandable from the perspective of the administration but, on the other, might favour well-established consultation routines and a tendency towards semi-open or even closed consultative meetings;
- in some cases the role of the NGOs is considered as problematic and in one case some NGO temporarily suspended the process and lodged a complaint with the Commission (but re-started the process after conciliatory steps from the part of the administration were taken).

The table below presents a more detailed outline of the notion of partnership in selected NSRFs.

¹⁷ Draft General Regulation, (9); highlighted by the author

Table 2: Review of the notion of partnership in selected NSRF 2007-2013

COUNTRY	MAIN APPROACH TO PARTNERSHIP BUILDING IN THE NSRF ELABORATION PROCESS (2007-2013)
Austria (AT)	The process of elaboration of the NSRF (strat.at) was in the hands of the Austrian Conference on Regional Planning (ÖROK) which is a consultative association founded by the national and Länder (regional) level, including also social and economic partners and the associations of towns and municipalities: thus certain aspects of the partnership principle are inherent to the organisation. Additionally NGOs representing gender mainstreaming and environmental sustainability were invited to join the process. The major milestones have been seven workshops.
Czech Republic (CZ)	The Management and Coordination Committee (MCC) became the most important instrument of the co-ordination through which all relevant stakeholders are involved in the preparation. The Minister for Regional Development chairs the Committee; other members include representatives of relevant ministries, territorial self-government (including the Capital City of Prague and representatives of the Union of Towns and Municipalities), economic and social partners, educational institutions and the non-profit sector. Between May 2005 and April 2007 the MCC met nine times.
Ireland (IE)	In preparation of the NSRF two processes had been run in parallel. A high level committee was formed to prepare the NSRF which comprised officials of the Departments of Finance, Enterprise, Trade and Employment and representatives of the Regional Assemblies. At various stages during the drafting of the NSRF, direct consultations with these stakeholders took place. In parallel to the NSRF preparation and consultation process, extensive consultations and negotiations surrounding the national partnership agreement "Towards 2016" were also taking place. Those participating in this process included all major socio-economic interest groups and a very broad range of NGOs. "Towards 2016" is a ten year Framework Social Partnership Agreement for the period 2006 to 2015. It is considered as the framework for meeting the economic and social challenges ahead.
Malta (MT)	With regard to the preparation of the NSRF itself, four Working Groups were set up focusing on a number of priority areas, namely: Economic development and Competitiveness, Accessibility, Environment, and Employment and Social Inclusion. The Working Groups were chaired by experts in the field and brought together Line Ministries, public sector organisations and relevant partners for discussions on the strategic framework pertaining to each priority areas. The process included several steps: one national SWOT workshop, four thematic sessions and five public dialogues. The draft document was also presented to a broad consultative body the so-called Malta Council for Social and Economic Development (MCESD).
Poland (PL)	The partnership principle is scarcely mentioned in the document, which, nevertheless, includes some interesting provisions e.g.: <ul style="list-style-type: none"> • one of the cornerstones to trigger off development processes of the regions in Eastern Poland (which are those most in need of development in all areas) • an element in capacity-building for the administration
Romania (RO)	The Ministry of Economy and Finance, in cooperation with a wide range of institutions and organisations, has prepared the NSRF. At national level the

COUNTRY	MAIN APPROACH TO PARTNERSHIP BUILDING IN THE NSRF ELABORATION PROCESS (2007-2013)
	<p>elaboration of the National Development Plan has involved the setting up of an inter-institutional committee made up of decision-makers from ministries, other public institutions, regional development agencies, research and higher education institutions, representatives of economic and social partners. At regional level the regional committees included similar set of representatives (though one has to note that regions do not have self-governing competencies).</p> <p>In addition to the meetings organised in the formal partnership structures numerous consultative workshops and seminars took place. The first draft of the NSRF was made available for public consultation.</p> <p>During the implementation period, the partnership framework related to the Structural Funds and the Cohesion Fund will continue to function through Monitoring Committees and regular meetings organised by ACIs, MAs, IBs and other relevant institutions, at national as well as at regional and local level. Capacity building had been considered as a vital element supporting partnership building. In particular in the sphere of ESF partnership approaches had been stressed as important vehicle for better programme delivery. Inter-institutional partnerships were also foreseen for partnership building in the administration.</p>
Slovenia (SI)	<p>At the start of the process Slovenia initiated large-scale meetings in the framework of the Sustainable Development Council, the governmental central consultancy body, intended for the dialogue with civil society and social partners concerning all basic issues of sustainable development.</p> <p>A special inter-sector group within the administration was formed. A series of coordination meetings with the representatives of the governmental bodies followed.</p> <p>Also specific meetings with NGOs had been held and it was stated that these meetings had been quite intense but had led to some concrete suggestions to include certain contents into the NSRF, e.g. the inclusion of NGOs in the implementation of development projects or to provide co-financing for certain activities of NGOs.</p> <p>The consultations with representatives of regional and local bodies (regional development agencies, municipalities) were on the one hand part of the general process and on the other separate procedures had been defined.</p>
Slovakia (SK)	<p>As a first step a Working Group of Ministers was established. The inter-ministerial working group comprised experts from the involved ministries.</p> <p>A wider so-called Expert Group for the NSRF included representatives of the relevant ministries, self-governing regions, towns and municipalities, the public, businesses, associations of employers and trade unions as well as NGOs. Out of this wider group self-governing regions received particular attention: bilateral working meetings as well as conferences contributed to capacity-building but also to strengthening the role of regions as intermediaries.</p> <p>At a certain stage representatives of NGOs suspended their membership in the partnership process: it was stated that the process had been run as a mere formal compliance exercise: upon negotiations the consultative process was re-established.</p>

Source: Draft respectively Final National Strategic Reference Frameworks¹⁸

¹⁸ For more details please see list of references

2.2. Role and expectations of different partners

A clear point is that **the involvement of local and regional authorities will largely depend on the administrative system of the MS**. Obvious determining factors are:

- the degree of decentralisation – which is decisive in determining in what capacity (in a literal sense) the regional authorities will be part of the programming process;
- the existence or otherwise of systems of fiscal equalisation (which has a significant impact on the financing capacity of regions and municipalities and thus influences their ability to finance infrastructure investment which ranks among the key concerns at sub-national level);
- the overall importance of EU funding in the development agenda: in many Member States the actual role of EU funds for local authorities is not particularly significant – especially in those Member States where the regions are not covered by the Convergence Objective.

When it comes to **social and economic partners there are marked differences regarding their role and position across the Member States**. For instance, the status of economic partners could range from that of an NGO (such as in Slovakia), to established partners in policy-making with their role anchored in the constitution (as in the case of Austria). This will shape their inclusion in the process either as senior or as junior partners. Another example illustrates this point from a practical perspective: upon explicit invitation by the programming authority the chamber of commerce in North-Rhine Westphalia (Germany) has provided a well-founded position paper during the programming process pointing out the needs of Small and Medium-sized Enterprises (SME) when it came to SME support. This contrasts with other cases where regional chambers might be considered rather as NGOs with their main interest lying in participating in future projects, thus posing immediate and justified questions regarding potential conflicts of interest.

The experience of NSRF programming in the current period shows that the authorities in charge of programming tend to consider **Non-Governmental Organisations (NGO)** - also known as Civil Society Organisations (CSO) - as the **most problematic element in the partnership process**. The range of options and mechanisms for inclusion in the process varies widely across the Member States. The selection of eight examples reveals a range from the matter-of-fact inclusion of two NGOs as in the case of Austria, of to critical remarks in the case of Slovenia, to significant conflicts between NGOs and the authorities as in Slovakia. Typically, the administration tends to claim that the process has to be manageable and thus participation has to be formalised, while the NGOs tend to be frustrated when confronted with a narrow range of prescribed choices.

2.3. Partnership in EU Cohesion Policy: ideal and challenges

The **ideal case of partnership-building** process as an integrated element of programming could bring about several benefits:¹⁹

- improved legitimisation of policy counter-balancing the current dominant focus on technical-administrative aspects;
- improved target orientation through better understanding of needs and gaps;

¹⁹ Hristova-Kurzydowski D. (2012)

- improved policy coordination, e.g. coordination between national, regional and local level to maximise effectiveness and efficiency of interventions;
- empowerment and capacity-building for actors at regional and local level, including CSOs (these being aspects of EU Cohesion Policy most frequently seen as being in its mainly in the hands of national administrations).

However, there are also **challenges** to be taken into account in considering **partnership in Cohesion Policy programming**, including the following:

- Lack of guidelines and clear definition: it is not clearly defined as to what partnership means and its notion could vary significantly across different types of Operational Programmes (OP): an OP on transport infrastructure based on national strategies for the trunk networks in road and rail transport will not leave room for open partnership building²⁰ whereas for a Regional OP under ERDF with a broad portfolio of interventions the building of regional partnerships could help authorities to get a better understanding of regional needs.
- Requirement for an underlying strategy versus open programmes: with the ex-ante conditionalities the Commission requires a set of strategies on many key fields of Cohesion Policy, and that the Partnership Contract and OPs should be in line with the strategies and vice versa. This raises the question as to what extent the OPs and/or the Partnership Contract can be perceived as a framework which is genuinely open to a wide partnership consultation. Being confronted with pre-defined goals and priorities might be a serious disincentive for stakeholders, especially CSOs.
- Conflicts of interest limiting involvement in programming: strictly speaking institutions which have been deeply involved in the programming process should not act as beneficiaries; this fact usually puts clear limits to the role of partners, in particular CSOs, whose main interest often lies in being a future beneficiary rather than in getting involved in programming.
- The question as to who is entitled to participate: in particular when it comes to NGOs it might not be easy to define the institutions which should be invited to participate in the process; the decision-making might be difficult in terms of legitimisation of the process; furthermore differences across regions could be significant – thriving conurbations will reveal vivid patterns of NGOs whereas peripheral areas facing outmigration and an ageing population might lack such actors.
- Difficult position of local authorities: in general the position of local authorities in EU Cohesion Policy reveals several critical aspects since – in particular in EU-12 – the local capacity for project generation and pre-financing, compared with the actual (infrastructure) needs, is often the decisive success factor in acquiring projects. Thus – despite serious shortcomings in infrastructure – small municipalities in remote areas tend to benefit less from EU Cohesion policy; in terms of programming, national strategies focusing on the most pressing infrastructure gaps could support a better allocation of funds.

From a **broad and distant perspective** two more challenging aspects deserve attention:

²⁰ The building of Public-Private-Partnerships might be a key strategic elements but this refers to a notion of partnership building which is entirely different from what is meant by partnership in programming as it is understood here

- The general approach to policy-making in each related to Cohesion Policy: it is quite clear that EU Cohesion Policy cannot be the only vehicle for open communication about major policy issues and it cannot compensate for general shortcomings of information and communication in policy-making.
- EU 2020 as the overarching guidance for the elaboration of the Partnership Contract also needs to be translated in various ways to be made understood by a broader public. This is a challenge that policy actors at all levels starting from the European down to the local level have to tackle. One of the first steps in this direction is obvious: the CSF has to offer convincing lines of argument which can also be used when working, for instance, on the general design of a regional OP for a less favoured area.

2.4. Recommendations related to the Partnership principle

As a general rule, it should be stated that the national context of EU Cohesion Policy is relevant and important²¹ when discussing the partnership principle. Two major aspects have to be considered:

- The overall funding volumes of CSF funds which is decisive for the actual weight of EU funds in the policy areas covered: CSF funds have a broad influence in Cohesion Countries - countries where large parts fall under the Convergence Objective - whereas in other countries a patchwork of comparatively small OPs (thematic or regional ones) play a comparatively minor role. This is particularly important for the importance of CSF funds at local level; in short, the aspect of proportionality has to be considered.
- The structure of the political-administrative system referring to decentralised versus centralised states: in the case of decentralised Member States such as Germany and Austria the rules of the game between national, regional and local level are largely set.

Seen from this perspective it is evident that – to a certain extent – the claim of Member States that the implementation of the partnership has to follow established modes is understandable:

*“At the same time, the partnership principle should continue to foster multilevel and bottom-up features of Cohesion policy by involving the relevant partners in the process of strategic programming and implementation according to the established modes of cooperation in a given Member State”.*²²

Any attempt of strengthening of the partnership will only be successful if it takes the above mentioned major aspects – i.e. the overall weight of funds as well as the structure of the political-administrative system - into account.

The Draft General Regulation refers rather vaguely to a code of conduct. It would be helpful if some general principles could be set out in more detail. In particular owing to the fact that some important issues seem to deserve more attention, as also the notion of partnership in some of the NSRF demonstrates.

²¹ Hristova-Kurzydowski D. (2012)

²² Presidency Report, 2011, p.5.

Due to the major differences across the Member States (and the widespread scepticism in the relevant parts of the administration) any attempt to anchor more detailed rules on the implementation of the partnership principle in the Regulation will meet resistance. But some minimum quality standards should be established. From our point of view guidance from the Commission should point towards the design of a communication strategy. Thus, it would become clearer that a meaningful process for partnership-building requires an underlying strategy and a dedicated plan for action.

A "one-size fits all" approach to partnership-building will not lead to convincing results but rather to frustration for both sides. The target groups of OPs differ to a certain extent and the same applies for the inherent objectives of partnership-building and, for obvious reasons, the means will accordingly differ. These points make also clear that partnership-building around the Partnership Contract is a coordination exercise from the very beginning. Due to capacity reasons but also due to know-how factors major parts of the process should be run by the designated programme authorities or at least in close cooperation with them.

The underlying matrix for such a communication strategy for partnership-building could be as follows:

Table 3: Matrix for a strategy in partnership-building

OP	Phase	Target group	Objective of partnership building	Means
Horizontal objectives	Preparation			
	Implementation	e.g. local and regional authorities	e.g. increased use of green public procurement	e.g. training offers
Regional OPs	Preparation	e.g. municipalities	e.g. shared needs assessment	e.g. assemblies at district level
	Implementation			
OP Social	Preparation			
	Implementation	e.g. NGOs working in social care	developing models for cost-efficient home care	focus groups upon invitation

Source: own considerations

Thus, one should focus on the fact that the code of conduct is one element of a serious strategy for partnership-building which should take into account the following three aspects:

Capacity building in the administration is crucial: a move towards governance or stronger participatory elements requires a certain expertise and skills related to process management in the administration. Governance and partnership building should be found as an element in capacity building strategies of Member States (and thus be an element of the Partnership Contract).

Partnership in programming is an important aspect and should be based on a communication strategy: this will be a mix of broad fora, public consultation via internet and more intensive forms of consultation. The more intensive and qualified forms of participation should focus on two major aspects:

- environmental policies;
- access to future funding: serious discussions on the shortcomings in the current period and to seek to establish more client-friendly procedures, to work on the reduction of barriers and administrative burdens and to support solutions related to pre-financing.

The third major point, which is at least as important, is **capacity-building for partnership in implementation**. This means the preparation of support to platforms and procedures in order to strengthen partnership in implementation. A particular point that merits attention is capacity-building for intermediaries, such as Local Action Groups, regional development agencies, regional managements, Euroregions, etc. Such institutions should generate and maintain open fora for discussion since non-structured processes will not be manageable and could jeopardise any planning from the part of programme authorities. In many Member States it is a challenge to go for an institutional set-up which relies on such regional intermediary structures to act as genuine programme intermediaries, assuming that they are not mainly depending on short-term project funding.

The role of intermediaries with a legitimate role in partnership-building is potentially valuable, especially:

- the thematic expertise of additional partners such as social and economic partners and NGOs (e.g. with their particular strengths in important social issues);
- from a geographical and institutional perspective for large countries with rather centralised administration;
- reaching target groups in particular for NGOs and small municipalities with low administrative capacities.

The **role of NGOs** deserves particular attention. Programme authorities tend to perceive this point as the most problematic one. For self-evident reasons a balance between two aspects has to be struck:

- a manageable process on the one side, and;
- the opportunity to express comments which lead to a qualified feedback from the programme authorities on the other.

In practice the programme authorities will rather invite NGOs which have either a long-standing – often even international – reputation²³ or are at least renowned at regional level for their longer-term involvement in regional or local policy-making.

The format of the process will have to vary but we would like to give some indication of minimum standards:

²³ NGOs such as the Red Cross, World Wildlife Funds, Friends of the Earth which are based on country as well as European and even global networks

- press information apt for national, regional and local press and media to mark the start of the process and indicate the options and channels for participation;
- a comprehensive website which provides background documents and overviews in an easy-to-read manner and which can be used also as a platform to publish the comments received; a wider audience should have a chance to understand the basic options but also the limits of assistance from the CSF Funds;
- invitation for broader consultation in writing;
- those parties which delivered substantiated comments should be invited to consultation meetings in order to understand fully their intervention.

3. FLEXIBILITY IN EU COHESION POLICY

KEY FINDINGS

- When considering the Partnership Contract from the perspective of flexibility the character of interventions and the provisions for change management are important aspects. There has to be a balance between the added-value of a longer-term commitment resting on a more or less binding plan versus the need for change management without adding disproportionate administrative burdens.

Change Management

- changes emanating from a Member State mostly due to changes of programmes: the Commission should be notified but we recommend that the change procedure should be integrated in the compulsory progress monitoring in 2017 and 2019;
- changes emanating from the Commission due to macro-economic imbalances: for obvious reasons viewed critically by the Member States and most likely not an element of the final regulation but still – as the recent case of the Cohesion Fund in Hungary has shown – a substantial issue for Cohesion Policy (since macro-economic stability will remain an important overarching policy issue in the period 2014-2020).

The term “flexibility” is often used in Cohesion Policy but it is important to clearly define which aspect of Cohesion Policy instruments it is addressed to. With a view to the elaboration of the Partnership Contract two major aspects deserve particular attention:

- a brief reflection on the **character of interventions** since in some cases a binding longer-term commitment to a plan and thus little room for flexibility in implementation might be desired;
- **change management** is an obvious point which could be a limiting factor for flexibility in implementation; if the change of one OP entails re-writing the strategy and re-calculating the performance framework at the level of the Partnership Contract the whole point of change management might become a serious administrative burden thus impeding reaction times, e.g. in case of dramatic changes in the economic situation.

Overall, a stronger connection between macro-economic development and a sharper focus on the absorption capacity²⁴ of Member States will result in a closer coordination between EU funding and budgetary planning. This will support a tendency towards shrinking flexibility in programme delivery. Monitoring of macro-economic performance and hence also of tendencies towards imbalances will mark the period 2014-2020.

3.1. Character of interventions

When it comes to the character of interventions it should be stated that for a significant part of the interventions the ex-ante definition of a clear policy rationale – and thus a limited degree of flexibility in implementation – makes sense. The fact that programming leads to a seven-year commitment can be considered as one of the major added-values of EU Cohesion Policy for many intervention areas. Considerable parts of Cohesion Policy

²⁴ The Draft General Regulation proposes capping rates for Cohesion allocations at 2.5% of GDP

funding are targeted towards investment which is meant to achieve longer-term impact and thus should be the subject of longer-term strategies and plans. This is also one of the implicit objectives of the ex-ante conditionalities.

Examples for such investment areas are to be found predominantly in public infrastructure investment which in the current period accounts for about 40% of EU Cohesion Policy (i.e. transport, environment, health, energy, education). The situation might look slightly different for business infrastructure such as technology centres or business incubators which are more strongly influenced by private investment. But even in this case a regional plan for the further extension of such infrastructure is in most cases needed in order to avoid stranded public investment into sites with limited prospects of economic viability.

However, it is true that for other parts of Cohesion Policy – in particular the ESF interventions – shorter reaction times and possibly a higher degree of flexibility as regards the character of interventions could be desired.²⁵

Further examples, where programmes should leave more room for flexibility are interventions in the framework of community-led local development strategies or in the framework of Joint Action Plan²⁶ or in an Integrated Territorial Investment²⁷ as part of an urban development strategy. In these cases – next to the flexibility as regards the character of the interventions – a second major point for flexibility is the timing. It is crucial that such, rather innovative, elements do not have to be submitted as part of the OP but can be defined and developed at a later stage. This could be anchored more firmly in the Regulation since it might also offer an incentive to apply these instruments.

An essential point when it comes to the need for a greater flexibility is in programming and programme delivery: this necessitates capacity-building and prudent knowledge management in the programme administration. Flexibility in the approach will require a certain expertise from the involved staff. Otherwise uncertainties and risk avoidance will prevent any change of established administrative routines.

3.2 Change management for the Partnership Contract

3.2.1 Changes emanating from a Member State

Clear-cut guidelines for change management are essential, in order not to render the Partnership Contract into a rigid framework which leads to disproportionate administrative burdens when amendments become necessary.

In operative terms in most cases the need for adjustment will emanate from individual Operational Programmes: the need for amendment might be due to intervention areas where demand has been overestimated or - for instance in the case of an OP focusing on SME support - it might be a reaction to an economic crisis. The eventual need for changes to the Partnership Contract will in particular affect the parts on strategy, thematic objectives, indicative allocations and the performance framework.

First of all, one has to state that the need to reflect changes in major policy elements in an overall agreement such as the Partnership Contract is meaningful: significant changes in one element of a consistent strategy will tend to influence other elements of the agreement as well. A broader discussion with respect to policy coordination at Partnership Contract

²⁵ Metis (2012), *Evaluation of the reaction of the ESF to the economic and financial crisis*, submitted to DG Employment, in cooperation with wiiw, Vienna

²⁶ European Commission (2011), Articles 93 to 98 of the Draft General Regulation

²⁷ European Commission (2011), Article 99 of the Draft General Regulation

level and the corresponding CSF funds' Coordination Committees is welcome and should be documented. As in any contract notification of changes should happen at an early stage but subsequent procedures for mutual agreement on the amendment between MS and the Commission will have to be short in order to avoid frustration or standstill.

A general rule is that the aspect of proportionality has to be taken into account: small changes (i.e. shifts between priorities of an OP) should require only notification at the level of the Partnership Contract but no formal procedure (since the change of the OP is in any case subject to an official procedure with the Commission).

Significant changes have to be communicated and justified properly but one could agree that the two key reporting years, i.e. 2017 and 2019 will be the years for a shared re-assessment of the Partnership Contract and the structure of the reports could be such that these documents lend themselves to becoming annexes to the Partnership Contract as agreed amendments.

3.2.2 Changes emanating from the Commission

A critical new aspect is offered by Article 21²⁸ of the Draft General Regulation which enables the Commission to request an amendment of the Partnership Contract in case of serious macro-economic imbalances or according to Article 21.(4) even allows the Commission to adjust the Contract on its own initiative:

"... with a view to maximising the growth and competitiveness impact of the available CSF Funds. To ensure effective implementation of the Partnership Contract and the relevant programmes, the Commission shall become involved in their management as detailed in the adjustment programme or the Memorandum of Understanding signed with the Member State concerned."

At this stage it is difficult to anticipate whether these intervention mechanisms will remain in the Regulation. The first sign of an intervention at European level has been the example of the Cohesion Fund for Hungary: the Council adopted a decision suspending EUR 495.2 million in scheduled commitments for Hungary under the EU's cohesion fund, taking effect as of 1 January 2013.²⁹ The intervention is paired with a recommendation under the EU's excessive debt procedure. The MS has been subject of an excessive debt procedure since 2004 and all corrective measures so far failed to convince the Commission. Thus it becomes quite clear that this step is an ultimate signpost which ends a long phase of negotiations and agreements on milestones.

In particular the reaction periods stipulated in the current Draft General Regulation sound quite harsh – e.g. upon request of the Commission the MS has to react within one month – but one has to bear in mind that the suspension of payments from the Cohesion Fund is the result of a long process of observation and informal negotiations. The repercussions on CSF funds are rather the last point in a long chain of negotiations in case of a serious crisis with a European dimension.

Thus one can summarise that such a step is a consequence and just one of the elements in European crisis management. Formally speaking there are many arguments underpinning the need for an adjustment of the Partnership Contract starting with the fact that in such cases the additionality principle is at least put at risk. In reality the magnitude of the underlying problem by far outweighs the dimension of Cohesion Policy and thus the need to adjust the Partnership Contract has to be considered as an inevitable consequence.

²⁸ European Commission (2011), *Article 21 of the Draft Regulation - conditionality linked to the coordination of Member States' economic policies*

²⁹ Council of the European Union (2012)

The key point is that shared crisis management mechanisms have to be developed and these are currently in status nascendi. In case of a crisis the CSF funds obviously become even more important since these funds allow for capital investment thus being a small though visible contribution for economic rehabilitation. The adjustment of the Partnership Contract has to be seen as one small element of a large economic reform agenda. The Commission should seek to strengthen the risk-awareness of Member States during the elaboration and negotiation phases of the Partnership Contract.

The actual functioning of these ultimate crisis mechanisms will depend largely on the clarity and the effects of a macro-economic monitoring process which is an integral part of the European Stability Mechanism (ESM).

4. SUMMARY ANALYSIS AND ASSESSMENT

KEY FINDINGS

The differences in negotiation and decision-making procedures, the weight of EU-funding in Cohesion Policy and the political-administrative system determine the approach to the development of the Partnership Contract. Three different models have been identified and illustrate the range of different approaches across the Member States:

- the Contract is a “common roof” strategy with major elements being developed at level of programme authorities;
- the Contract subsumes a distinct strategy for a rather narrowly defined set of interventions financed from EU Cohesion Policy;
- the Contract is the ultimate and comprehensive national development programme.

Assessment along the three major elements of the Partnership Contract

- the strategy, thematic objectives and indicative financial allocations as well as the list of Programmes: this is a crucial element and the Commission should not accept a Contract without the core piece of a binding financial agreement (given the financial volumes involved!);
- the strategy for integrated approaches to territorial development and for regions most affected by poverty: these provisions might become part of e.g. the ex-ante conditionalities but one has to be aware that it summarises valuable elements with a view to environmental and social sustainability of Cohesion Policy;
- the implementation arrangements for an effective and efficient implementation: which is again a crucial element and a strong commitment should be asked from the Member States.

The Draft Regulations have initiated a lively debate in various formats. Some snapshots from the current discussions will help to understand the wide range of positions within the Member States. The Presidency of the Council report³⁰ on the draft legislative package highlights several key concerns of the Member States:

- *“The **Partnership Contract** (PC) is another key element of the strategic programming arrangements, [...]. Among calls from MSs for keeping the PC as simple as possible, many also expressed their concerns about the PC timing issues.”³¹*
- As regards the strategy and alignment of funds with a view to the CSF – as the document guiding the contents of Partnership Contracts - the statements are ambiguous: *“Generally, MSs welcomed the **alignment and coordination** of all the five Funds under the CSF. According to a number of delegations, the CSF should provide a strategic guidance and coordination regarding the thematic and territorial dimension of the support from the CSF Funds and other EU policies at the European level, but it should not impose one-size-fits-all restrictions for the Funds’ interventions at the national and regional level.”³²*

³⁰ Council of the European Union (2011), *The Presidency Report*, 7 December 2011, Brussels

³¹ Council of the European Union (2011), p. 5

³² Council of the European Union (2011), p. 5

- *"In general, MS were in favour of **ex-ante conditionalities** as they would contribute to improving Cohesion Policy performance [...]. However, serious concerns were raised about the lack of direct reference of ex-ante conditionalities proposed by the Commission to the effectiveness and efficiency of Cohesion Policy. MSs reiterated that the principles of proportionality and subsidiarity should be respected."*³³
- Though macroeconomic conditionalities are not an element of the Partnership Contract these are still important with a view to the general handling of EU Cohesion Policy: "As regards the **macroeconomic conditionalities**, delegations were divided on the applicability of the instruments proposed by the Commission – some of them found it necessary to ensure a stable macroeconomic environment for the CSF Funds, while other believed that macroeconomic conditionalities cannot be reconciled with the Cohesion Policy's objectives."³⁴ Moreover the UK Court of Auditors³⁵ stresses the risk of legal uncertainties and a potential risk for the fulfilment of long-term obligations within the frame of Partnership Contracts.
- On striving for **integrated approaches towards territorial development**, which is a novelty in the Partnership Contract, "there was a general support among MSs for further enhancing of the territorial dimension of Cohesion Policy and for introducing of some specialised instruments of territorial development."³⁶

From the perspective of the Commission the Partnership Contract is perceived as the overarching agreement between the Commission and a Member State. However, despite the fact that the contents of the Contracts will be comparable, the pathways of negotiation towards the final document and the underlying coordination process will vary strongly between Member States.

4.1. Possible approaches to the Partnership Contract

The diversity of opinions as well as the partly divergent positions of Member States towards the Partnership Contract are quite understandable since the context of EU Cohesion Policy, as well as, the actual use of funds differ strongly among the Member States. These differences mark the complete policy cycle from programming to policy delivery.

When considering the programming and the elaboration of such strategic frameworks for Cohesion Policy - be it the National Strategic Reference Frameworks 2007-2013 or the Partnership Contracts 2014-2020 - the following aspects account for some substantial differences between the approaches of the Member States:

- the approach to decision-making, i.e. bottom-up versus top-down approach;
- the weight of CSF funds in Cohesion Policy, i.e. the overall funding volume;

³³ Council of the European Union (2011), p. 7

³⁴ Council of the European Union (2011), p. 8

³⁵ UK Court of Auditors (2011), *Court of Auditors Opinion 7/2011* on the proposal for a Regulation of the European Parliament and of the Council laying down common provisions on the European 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

³⁶ Council of the European Union (2011), p. 7

- the structure of the political-administrative system, i.e. the distinction between centralised and decentralised Member States.

These aspects have major implications for the approach to negotiations in the programming phase, as well as the subsequent flexibility of the framework regarding change management.

One group of Member States – the EU-12 - is marked by a tendency towards centralised political-administrative systems and a significant weight of EU-funding in Cohesion Policy. Among the remaining 15 Member States the diversity of political-administrative systems is high, as is the weight of EU-funding in Cohesion Policy.

The differences in decision-making, the weight of EU-funding in Cohesion Policy and the political-administrative system determine the approach to the development of the Partnership Contract. In the following section three possible approaches towards programming and the setting up the Partnership Contract have been outlined in order to illustrate the different pathways to the final document.

4.1.1 Partnership Contract as a “common roof” for a bottom-up approach

A bottom-up approach for setting up the underlying strategy for the Contract would mean that all institutions involved in the strategy development are in an equal position. The line ministries which are in charge of individual programmes are the key players, the coordinating bodies are in a comparatively weak position. Thus the Partnership Contract would form an aggregate of rather heterogeneous sectoral and/or regional OPs being loosely tied together into a single framework. Given the fact that in many Member States the programme authorities are the respective line ministries with one ministry acting as coordinating body this scenario is quite likely to be close to reality. The apparent challenge for the coordinating body is to construct the Partnership Contract as an overarching framework for all Operational Programmes thereby respecting the need for consistency, coherence and thematic concentration. This approach is most likely to be applied in Member States with rather centralised administration and substantial funding from CSF funds.

In terms of flexibility this approach is probably close to the current reality: changes emanate from and are decided by programme authorities, and implications for the strategic framework are considered as a consequence. However, due to the weight of CSF funding changes might have political implications.

4.1.2 Partnership Contract as a distinct strategy for EU funds

In this case the combination of a bottom-up and a top-down approach guides the elaboration of the Contract. A strategy for using EU funds is the key milestone in the process. The coordinating body is in a stronger position whereas programme authorities have to some extent to comply with the pre-requirements of the strategic framework.

The major difference from the other two models is the focus on the use of EU funds as a distinct element in the overall policy framework. More precisely, the Partnership Contract could include a “vertical” strategy for using the EU funds down to the level of key actions. But this would not cover a broad range of intervention areas, since major parts of investment to Cohesion Policy would be subject to national programming and financing.

This approach tends to separate the use of the EU funds and its application is restricted to comparatively narrowly defined intervention areas. The obvious challenge in programming is to negotiate those intervention areas where EU-funding should play a role. This approach reflects the reality of Member States which finance Cohesion Policy largely from national sources.

In terms of flexibility the approach would mean to negotiate necessary changes between the programme authority and the coordinating body. The point of departure in negotiations would be the strategy. However, due to the small overall weight of CSF funds and the rather narrow range of intervention areas covered, the changes would be most probably decided at a more technical level, i.e. within the responsible administration.

4.1.3 Partnership Contract as a comprehensive approach

This model could be summarised as a holistic strategic concept including dominant parts of public investment for a seven-year period. The development of the strategy requires a strong top-down element, i.e. a strong coordinating body with substantial power and close to the government. EU funding has a considerable weight and consequently acts as a strong lever in policy-making and, moreover, the approach aims at a comprehensive strategy. Thus the resulting Contract will constitute a comprehensive national development programme. The obvious challenge is posed by cross-sector negotiations for a framework which exceeds regular cycles in politics. Such an approach might be a feasible option for small centralised Member States. It is not applicable to federal states like Austria or the larger Member States.

In terms of flexibility, this approach poses substantial challenges. Owing to the fact that the overarching national development programme constitutes the key contents of the Partnership Contract any substantial change would have far-reaching consequences in political decision-making next to the negotiations with the European Commission.

4.2. The scope of the Partnership Contract

A starting point which needs to be considered is the intended scope of the Partnership Contract. There are many arguments which speak for an overarching strategy with substantial ramifications into the broader context of the interventions but for obvious reasons such a strategy bears also many inherent challenges. Thus it is worthwhile to reconsider all proposed elements of the Partnership Contract with a view to their position, their potential added-value for Cohesion Policy but also the inherent challenges and risks.

Generally speaking we see no alternative to a binding financial framework for CSF funds which is agreed between Member States and the Commission. The binding financial framework which is linked to concrete statements regarding the underlying strategy and expected results have formed the core part of the NSRFs in the current period and will be the main element of the Partnership Contract for the period 2014-2020. The link between Cohesion Policy and the economic performance of Member States is another major argument in favour of a binding contract. This can also be argued for the prudent use of the European taxpayer's money.

4.2.1 The additional elements compared to the current period

As has been shown in Chapter 1, the Partnership Contract foresees additional requirements as compared to the NSRF in the current period. The major ones are:

- integrated approaches to territorial development and for the regions most affected by poverty;
- a summary assessment of the fulfilment of the ex-ante conditionalities.

According to our view one can discuss mostly about these additional elements. The integrated approaches to territorial development and poverty reduction are new strategic elements which in principle could be shifted to another document. But one has to see that these are elements where:

- **territorial development** is crucial with respect to sustainable development and will not have any other opportunity to achieve a comparable position on the European agenda: the European Spatial Development Concept as well as the efforts in the framework of ESPON³⁷ are important initiatives but an explicit focus on territorial development in the framework of national approaches to Cohesion Policy would definitely support awareness-raising.
- to some extent the same applies to **poverty reduction** – poverty is an increasing phenomenon with massive consequences on a social and economic scale. It should have a prominent place in longer-term policy-making. Furthermore, particularly this perspective would solicit stronger partnership approaches since there is a large body of evidence that in such social activities NGOs are quite prominent throughout Europe (and enjoy a high reputation for their work among the general public).

The **ex-ante conditionalities** refer to the need for a number of strategies and plans on major EU Cohesion Policy issues and an explicit statement towards the actions taken to comply with major EU Directives. A general issue for EU-12 is that all Commission services concerned have undoubtedly expressed their views on conditionalities, which are partly long overdue given the fact that the last accession waves have been in 2004 and 2007 respectively. However for some of the conditionalities e.g. those related to the sphere of ESF the number of actions plans and the added-value of such documents is questionable. One can expect that the strategies requested will be in any case key points in the underlying checklists of the Commission when checking the ESF programmes. In other words in many countries the ESF programmes will be the key action plan related to many of the issues raised in the ex-ante conditionalities. Some of the general conditionalities are welcome, e.g. the claim for action related to pro-actively transferring the Directives on Public Procurement into national practice, an action of evident importance to Cohesion Policy.³⁸

³⁷ ESPON - European Spatial Planning Observatory Network – a programme under ETC focussing on spatial development research

³⁸ Metis (2012a)

4.2.2 Summary assessment of the Partnership Contract 2014-2020

The Partnership Contract – as a major contractual link between the MS and the Commission – can be sub-divided into three sections:

- the strategy, thematic objectives and indicative financial allocations as well as the list of Programmes;
- the strategies for integrated approaches to territorial development and for regions most affected by poverty,
- the implementation arrangements for an effective and efficient implementation

Each of these parts includes several sub-sections. The table on the following pages seeks to provide a summary assessment of these elements with a view to added-value, challenges and risks. These considerations lead to recommendations which are mostly drawn from the perspective of Structural Funds practitioners.

Table 4: Summary assessment of the major elements in the Partnership Contract

Element of the Partnership Contract	Importance/ added-value	Major challenges/ risks	Recommendation
Strategy			
Strategy	Developing a joint strategy is one of the anchor points for policy coordination – the interplay of different sector policies is the key to Cohesion Policy	Cohesion Policy consists of a mix of different elements which are partly by nature longer-term development tasks such as infrastructure investment whereas other elements might need adjustment in shorter intervals – put it into one framework might hamper flexibility	<p>The Partnership Contract should include the commitment to a cross-programme strategy</p> <p>The added-value of policy coordination outweighs the challenges or risks; if only tackled at programme level it is harder to identify gaps and inconsistencies</p> <p>Change management provisions have to be carefully considered and should not lead to disproportionate administrative burden</p>
Thematic objectives, indicative allocations to objectives, summary of results, list of OPs	Key elements of a binding financial framework	Might be perceived as the most obvious burden in change management; however in practice it is a more technical exercise	<p>Financial allocations and commitment to objectives form one of the cornerstones of EU Cohesion Policy – thus it is a crucial element of the Partnership Contract</p> <p>This will remain a key requirement from the part of the Commission which is understandable looking at the financial volumes – the fact that it is a multi-annual framework which should rest on a coordinated strategy is a key added-value of EU Cohesion Policy</p>
Integrated approaches			
Strategies for integrated approaches to territorial development	Serious approach would be an important contribution to environmental sustainability of Cohesion Policy	New and thus unprecedented element; since no financial allocations are required one of the elements which could be most possibly moved out of the PC; also the actual impact on national legislation is doubtful	<p>Territorial development is an important policy perspective but placing it in the Partnership Contract will remain rather a symbolic gesture; a targeted approach in Operational Programmes dealing with infrastructure might be more effective</p> <p>It is evident that Cohesion Policy has a</p>

Element of the Partnership Contract	Importance/ added-value	Major challenges/ risks	Recommendation
			territorial dimension which has to be carefully considered (in particular due to the long-term territorial impact of certain infrastructures) – taking it out runs to some extent counter to efforts to anchor environmental sustainability in Cohesion Policy; however, moving it to the ex-ante conditionalities could be one option or to request a more targeted element for certain Operational Programmes with evident territorial impact (e.g. transport)
Strategies for regions most affected by poverty plus indicative allocations	Poverty is an increasing phenomenon across Europe with enormous social and economic implication; fostering a regional perspective on poverty is new and in many countries unprecedented	If taken seriously poverty reduction in the context of Cohesion Policy might lead to new coordination mechanisms and also encourage new partnerships – but given the time constraints it might end in a compliance exercise	Same as territorial development poverty reduction should rest on a comprehensive approach; it would strengthen the social side of Cohesion Policy but it could also be part of the ex-ante conditionalities
Implementation arrangements			
Effective implementation			
Performance framework	Performance framework means to provide a selection of key indicators for reporting at European level	Similar to the financial part of the strategy the performance framework could be perceived as an impediment to change management	<p>Improved guidance and standardisation of indicators for the most frequent types of interventions should be requested from the Commission; moreover a pragmatic and easy approach to revision of the performance framework in 2017 and 2019 should be developed</p> <p>The strong focus on quantitative aspects is understandable but then also ERDF should go for standardisation of key indicators for the most common types of intervention (similar to</p>

Element of the Partnership Contract	Importance/ added-value	Major challenges/ risks	Recommendation
			EAFRD) – thus implicitly improving consistency of the indicator framework and ensuring comparable results
Coordination mechanisms	Coordination of sector policies is a crucial requirement of Cohesion Policy	Coordination mechanisms are often dealt with on the level of strategic coordination although it should be operational coordination	<p>Coordination mechanisms at national level should be considered as a key element for sound policy delivery – thus it should be in the Partnership Contract</p> <p>A comprehensive strategy for Cohesion Policy will hardly work without explicit coordination mechanisms</p>
Fulfilment of ex-ante conditionalities	Partly these are plans which are long due since it refers to important sector strategies or e.g. actions to comply with procurement directives	Time constraints and the need to formulate OPs at the same time might lead to strategies and action plans which are neither substantiated nor provide actual guidance	<p>The ex-ante conditionalities should be revisited and their number should be reduced</p> <p>Removing the ex-ante conditionalities would rather jeopardise the underlying rationale – but their number should be reduced; in certain cases – in particular in case of Cohesion Countries it should be acknowledged that for many fields the OP as such is the major strategy</p>
Verification of the additionality principle	Guiding principle of EU Cohesion Policy	A guiding element whose strategic implications tend to be underestimated (since the additionality principle requires a longer-term perspective compared to regular budgeting)	<p>The additionality principle represents a cornerstone which requests a binding commitment at national level - thus it has to be in the Partnership Contract</p> <p>The verification of additionality is a key element which has to be developed at national level and not at level of OPs (for quite evident reasons)</p>
Partnership-building	One of the principles of EU Cohesion Policy; broadened partnerships might bring about many benefits from improved effectiveness to	EU Cohesion Policy can only encourage to improve participatory approaches; a one-size-fits-all approach will not work due to differences among Member States	Since in our view partnership-building should be based on a coordinated strategy and action plan, the Partnership Contract is the adequate place to develop the approach to

Element of the Partnership Contract	Importance/ added-value	Major challenges/ risks	Recommendation
	strengthened legitimization	(and due to resistance in parts of the administration it will happen only if it is a compulsory element)	partnership building But in order to ensure the impact of the exercise guidance respectively minimum standards are needed
Efficient implementation			
Capacity-building actions for administration, beneficiaries	Client-friendly administration and sound financial management (as two major pillars) can only be based on trained staff	Due to conflicts of competencies and competitive attitudes in the administration a serious needs assessment might not be done	To anchor capacity-building at level of the PC might foster standardisation and in some cases also economies of scale
Actions to reduce administrative burden for beneficiaries	Decisive for a move towards more client-friendly administration	Rather the risk that no simplifications will be done due to strict interpretation of EU provisions at national level and / or resistance in administration to change established routines	This has to be part of the Operational Programmes as well; it does not necessarily have to be an element of the Partnership Contract Such actions are utmost important to raise the interest of potential beneficiaries (which is particularly important in those countries with a small share of EU-funding and thus competition from national sources) If done at PC level this might favour a stronger standardisation
Electronic data exchange	Basic element for exchange on financial data and all Member States have adequate systems	None	This represents a confirmation towards the Commission from the national level – thus the Partnership Contract is an adequate place; moreover it does not imply any substantial work burden (since these systems are up and running though there is usually a need for adjustment with each new funding period)

4.3 Timing

The major milestones in the process towards the Common Strategic Framework (CSF) and the subsequent elaboration of the Partnership Contracts are as follows:

- the adoption of the financial perspective 2014-2020 by the end of this year
- which allows the adoption of the CSF in the first semester of 2013

According to the Draft General Regulation the Partnership Contract has to be delivered within three months after the adoption of the CSF.³⁹ The Commission has then three months for revision and in total the adoption procedure should not take longer than six months starting from the delivery of the Contract to the Commission. Thus, ideally the CSF may not be adopted later than March 2013 otherwise one has to concede a serious risk that some Member States will not have an agreed Partnership Contract by January 2014.

One can therefore expect that after the summer break the programming work will enter an intensive phase. For obvious reasons the authorities in charge of programming would like to have a clear-cut legislative framework. In order to achieve this, the Regulations should be issued at latest in early autumn of this year. Provided that the documents are available in October 2012 it leaves the Member States in total about nine months for the programming process, including the Partnership Contract as well as the Operational Programmes. This is a challenging venture and de-facto the preparatory steps have to be started now since in many cases external support has to be sought which in turn means that procurement of these services needs to have been prepared in advance. To some extent this means to work with “moving targets” since some important elements are not yet fully clear.

The whole setting and the rather tight timelines make quite clear that in practice the programming task has to be a rolling procedure – programmes have to be developed in parallel to the Partnership Contract and effective process management and coordination mechanisms will be essential to meet the timelines.

³⁹ In the current period the NSRF 2007-2013 had to be delivered within five months after the adoption of the Community Strategic Guidelines on Cohesion (CSG). The Council decision was taken on October 6, 2006. It means that NSRF could have been delivered as late as February 2007.

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ISBN 978-92-823-3759-2
doi:10.2861/87259