

European Code of Conduct on Partnership

UEAPME¹ position paper on the working document of the Commission « The partnership principle in the implementation of the Common Strategic Framework Funds – elements for a European Code of Conduct on Partnership » SWD(2012) 106 final

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1-General remarks

- The participation of economic and social partners in the whole process of developing, implementing and monitoring (article 5 CPR) is a key element of the effectiveness of partnership contracts and the success of the cohesion policy. UEAPME has requested that, pursuant to the Small Business Act SBA, representatives of various categories of SMEs – medium, small and micro enterprises, as well as craft enterprises are stakeholders and are systematically involved in all European, national and territorial committees and working groups in form of “multilevel and multi-actors governance”.

- This partnership is essential to ensure that the priorities to be adopted at the three levels correspond well to the expectations of economic and social actors and that they will meet their needs to enable them to implement the flagship of the 2020 strategy and play a more active role in economic development and employment in the territories. UEAPME fully shares the remarks of the working document on the indispensability of representative partners including SMEs.

- As outlined in our 2010 study², the lack of partnership is one of the key reasons for the low overall impact of structural funds on SMEs and micro enterprises, only 2-3% of small businesses, or 92% of European companies benefit from Structural Funds. Enterprises without any employees, of which there are 50%, the figure would fall to 0.5% rate of participation. In contrast, examples of positive impact in many areas testify of effective partnerships amongst SME organisations, administrative authorities as well as local and regional bodies.

- UEAPME reaffirms the importance of the Code of Conduct. If the code must respect the principle of subsidiarity and respect the rules and institutional division of powers in each member state, it must nevertheless state minimum requirements and fundamental principles for defining the partners to be obligatory involved in the process of defining partnership agreements and operational programmes, their roles and responsibilities, and the actual organisation of the partnership. This method is consistent with the spirit of the Small Business Act which is to involve stakeholders in political choices that affect them.

- In addition to the question of the effectiveness of CSF funds, UEAPME believes that in the current period of economic and financial crisis, political and operational measures must be pertinent. In the spirit of a recovery policy, which requires the establishment of trust, operational measures need to meet the expectations of European citizens, to be of direct benefit and to be visible including at local level. An effective participation of their representatives in the form of multi-actors and multilevel governance is the way forward.

- UEAPME approves globally the priorities and proposals of the working document, in particular the active association of the concerned partners at all levels of the cycle of programmes. The working document rightly emphasizes the importance of capacity building to enable partners to acquire, for those who do not have the experience, the technical ability to

¹ UEAPME subscribes to the European Commission’s Register of Interest Representatives and to the related code of conduct as requested by the European Transparency Initiative. Our ID number is [55820581197-35](https://ec.europa.eu/transparency/regexp10/index.cfm?do=groupDetail.groupDetail&id=5582058119735).

² UEAPME position paper “105 simplification measures of the administrative rules and the financial management” – Brussels, April 2010, <http://www.ueapme.com/spip.php?rubrique26>

contribute to the process. This technical capacity building must be open to all partners, the administrative and management, government and local authorities and the economic and social partners, especially organisations of SMEs, micro and craft enterprises.

- However, several points need to be clarified, in particular how to select the partners: is it based on the nature of the funds, the know-how, the class of the beneficiaries concerned, or the historical experience of participation in the structural funds? Similarly, it is a question of minimum requirements yet to be defined. UEAPME believes it would be appropriate to define a list of partners including the right business partners and representative social partners, as well as a list of potential partners according to topics.

- Given the need to respect the rules and procedures or practices and habits of each member state, the collection of examples of good partnership practices is a positive initiative. This could even be reinforced by additional regional examples.

- UEAPME requests:

- that the Code of Conduct is not only a guidance document but is of sufficient restrictive nature to ensure as far as possible the effective participation of partners covered by article 5 of the process of developing partnership agreements and territorial programmes.

- that the Commission decides on control measures to ensure compliance with the rules of the Code of conduct and any penalties as, inter alia, the refusal of proposed partnership contracts
Partnerships and the Code of conduct should be recognised as ex ante criterion.

- UEAPME hopes that given the anticipated period of adoption, the Code of Conduct may still be used in time for the definition of national partnership agreements and regional programmes. Currently, according to the member states, business partners and representative social partners are fully involved sometimes, other times they are only consulted but mostly completely ignored.

- To ensure an effective partnership, UEAPME asks the Commission to adopt this Code of Conduct urgently.

2. Selection of partners

2.1- Involvement of economic partners and social partners

UEAPME agrees with the distinction that the code of conduct establishes between the social partners and economic partners to ensure a systematic participation and by principle of these two categories of actors. These two categories of actors have their distinct legitimacies and their responsibilities: their respective representation should not be confused or substitute one for the other.

For UEAPME, involvement of social partners at national and/or territorial level is necessary and balanced representation is desirable.

- Similarly, balanced representation of economic partners representing the different categories of large, medium sized, small and micro enterprises is of major importance as well as the craft and commerce organisations. It is especially important to ensure that these organisations which are recognised representatives at the national or regional level are also the ones which are involved..

When the work concerns professional or sectoral topics, the partners must be able to delegate to their respective sector or branch members or to be accompanied by them.

2-2 – Involvement of civil society bodies, equal opportunities and non discrimination

UEAPME supports the proposal of the working document to form amongst organisations involved a coordination structure under an umbrella organisation with the ability to delegate or be accompanied by the NGO concerned with a specific topic.

Proposals: *establishing a list of full members*

- Social partners, members of the inter-professional social dialogue at national and/ or at territorial level,
- Representatives of economic organisations representatives of the different categories of enterprises

2-3 Selection criteria and conditions

- The partnership at national and regional level should not be seen as a constraint, but rather as a way to add real value to political and operational choices and ensure their effectiveness. This is what arises from the examples of good practice presented by the working paper. Therefore, partners must be able to provide this added value.
- Member states must be able to set the list of full partners in consultation with the representatives of the national economic partners and the representative national social partners.
- Member states and regional and local authorities should have the opportunity to involve also the organisations they deem representative at their level.
- This raises issues of fair representation and proportionality in relation to a relevant and effective functioning of the partnership: on the one hand working groups and technical/monitoring committees should not be too important to allow proper operation. On the other hand the various partners must be duly represented.
- Concerning the participation of enterprise representatives: in order to ensure the representation taking into consideration all sizes and categories, including those enterprises with no employees which are 50% of all European enterprises, it is necessary to guarantee the participation of their representative organisations such as economic/ private law chambers and consular/ public law chambers as well as professional organisations.

Proposals:

- Besides the criterion of representativeness, UEAPME suggests two other criteria:
 - Imperative and exclusive criterion: independence. The partners must not represent private personal /individual interests.
 - Qualitative criterion: The partner's experience in the management of Community or national programmes.
- Ensure the participation of the organisations which are representative of different categories of SMES according to the EU definition.

3- Involvement of partners in the preparation of programming documents

UEAPME fully shares the proposals from the European Commission.

- Concerning the development of the partnership contract and programmes (section 3.1), a fourth task must be entrusted to partners: setting priorities.
- Inclusion of modalities of the partnership in the programming documents (paragraph 3.3): UEAPME supports the principle of including in the partnership contracts and programmes the six measures proposed by the Commission. While respecting the principle of subsidiarity, the member state should be able to justify the reasons for the refusal to associate a particular partner.
- A new measure, of more qualitative nature, could be added: the impact of the partnership and its beneficial effects on the negotiations and selection of priorities.

Proposals:

- Strengthen the partnership and the importance of article 5 CRP: partnership should be an ex-ante criterion.
- Add a 7th measure in the Partnership contracts and the programmes: analysis of the effectiveness of the partnership in the definition and the selection of priorities proposed in the contracts.

4- Involvement of partners in the implementation phase

4.1 Monitoring committees

UEAPME supports in general the Commission's proposals subject to the following remarks:

- Distinguish between national and local monitoring committees: it is desirable to install monitoring committees at national and territorial level which is not specifically mentioned in the Commission's text which exclusively focuses on national monitoring committees.

- If a member state decides to create multiple monitoring committees according to the programme, UEAPME disagrees with the proposal (4.1.1, paragraph 2, point ii) that the representation is proportional to the respective partners in the programme execution.

The concept 'respective shares' is dangerous and could lead to the exclusion of territorial partners whose members have not been able to propose programmes or whose proposals were not accepted, or could lead to an overrepresentation of certain partners to the detriment of others. The proposal is contrary to the principles of equality and diversity raised by the proposal point iv). It could also potentially distort the objectivity of the pronouncements of the committee because of the voting rights available to members (4.1.2, paragraph 2)

One should eliminate proposal ii) and stick to proposal i) specifying that all partners who have contributed to the preparation of a programme are represented.

- Territorial monitoring committees: it is desirable, for practical, financial and efficiency reasons, that a single monitoring committee be established by region.

- Mandate and procedures of the monitoring committees:

- adoption of the rules: if each monitoring committee may adopt specific provisions in its own area of administrative management and operation, the code of conduct must still establish common rules and specific roles and missions. It is important that the national and territorial committees of the 27 member states exercise in identical ways even if they are managed according to their proper administrative rules.

- Decision making by consensus: this should be the rule rather than a simple wish. To change this principle of consensus would ultimately mean that only the administrative and managing authorities take a decision, which is contrary to the spirit of article 5 CPR.

Proposals:

- Distinguish between national and territorial committees;
- Eliminate the proposal ii) proportionate representation of partners according to their implication in these programmes;
- Harmonise regulations by establishing minimum common rules on the tasks and the role of the committees.

4.2 Participation in the project selection

UEAPME shares almost entirely the approach of the Commission, except as regards the preparation of calls for proposals: the experience of all partners is useful for ensuring the effectiveness and appropriateness of writing. Regarding the analysis of proposals, only the partners who directly answered the call should be excluded from the decision making process.

5- Associate partners in the evaluation process

UEAPME shares the Commission's analysis and supports the three proposals. However, it should ensure that the assessment establishes guidelines to develop programmes that would be transmitted to the Commission.

6- Assistance to partners

Technical assistance as in article 52 CPR should not be limited to the administrative and managing authorities, but be accessible to all partners and project managers. UEAPME fully shares the proposals of the paper, particularly with regard to common training and contribution towards the costs of private partners.

Assistance to partners should not be limited to members of working groups and monitoring committees, but also apply to potential beneficiaries and project managers. According to the study of UEAPME 2010, small enterprises and their

organisations explain their growing disengagement of structural funds by several major problems, particularly the lack of continuous training and information, the administrative and financial burdens and disputes with the management and administrative authorities.

UEAPME believes that the monitoring committees at national and regional level should be mandated to solve these three problems.

Proposals: assign four missions of assistance to the monitoring committees:

- Secure and manage the communication, information and continuous training of potential beneficiaries of structural funds in their territories and the training of project managers (article 107 CPR);
- Analyse the administrative burdens faced by project managers and simplify them;
- Promote electronic procedures and e-cohesion measures
- solve litigations by alternative dispute resolution systems amongst the managing authorities, project managers and final beneficiaries, related to divergent interpretations of texts, the requirements of excessive control and audit as well as payment delays (article 63-3 CPR) according to equal methods.

7- Continuous exchange of good practices

The working paper essentially cites exchanges of practices within the European coordination committees.

At national and territorial level UEAPME underlines the high added value of examples of good partnership practices presented in the working document.

Proposal: enrich the text with other examples ensuring a balanced representation of the 27 member states and to mention these in the final version of the code of conduct.

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