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Public eye on the EU funds

Civil society involvement in the structural,
cohesion and rural development funds

Examples from Central and Eastern Europe

April 2005

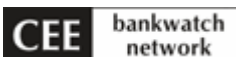


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The CEE Bankwatch Network is an international non-governmental organisation with member organisations currently from 10 countries of the CEE and CIS region. The basic aim of the network is to monitor the activities of international funders in the region, and to propose constructive alternatives to their policies and projects in the region. The CEE Bankwatch Network was formally set up in 1995 and has become one of the strongest networks of environmental NGOs in Central and Eastern Europe. The Network focuses mainly on energy, transport and EU enlargement, while working to promote public participation and access to information about the activities of international funders in the CEE region. www.bankwatch.org



Friends of the Earth Europe is the largest grassroots environmental network in Europe uniting more than 30 national organisations with thousands of local groups. FoEE campaigns for sustainable solutions to benefit the planet, people and our common future. FoEE coordinates and supports campaigns which deal with a large variety of subjects including climate change, energy, eco-taxation and nuclear safety; food, farming and biotechnology; globalisation, trade, corporate accountability and sustainable development; and regional programmes in Central and Eastern Europe and the Mediterranean. www.foeeurope.org

A long record of monitoring the EU funds in CEE countries

CEE Bankwatch Network and Friends of the Earth Europe have been monitoring the use and participating in the operation of the EU funds in CEE countries for more than five years. We combine participation in official structures and procedures with independent research and public awareness-raising on EU-funded programmes and projects.

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Abbreviations

CEE	Central and Eastern Europe
EAFRD	European Agricultural Fund for Rural Development
EIA	Environmental Impact Assessment
ENGO	Environmental non-governmental organisation
ISPA	Instrument for Structural Policies for Pre-Accession Aid
NGO	Non-governmental organisation
SEA	Strategic Environmental Assessment

Introduction

The structural, cohesion, rural development and pre-accession funds (EU funds) are an important instrument of solidarity between countries and regions of Europe. Representing more than one third of the EU's budget, the funds constitute substantial financial assistance that shapes the long-term development of the recipient countries and regions. Efficient, transparent and environmentally sustainable use of the funds is of great interest both to people in the recipient countries and to European taxpayers in the donor countries.

One way of achieving this is through participation of non-governmental organisations (NGOs) and other stakeholders in committees for programming, implementation and monitoring of the funds and in environmental assessments of the funded programmes and projects.

This booklet explains the possibilities for and the importance of such participation, outlines some positive examples in practice and concludes with recommendations for the EU and its Member States. The booklet focuses on the new member states of Central and Eastern Europe, which will now become the primary beneficiaries of the EU funds.

The EU funds in Central and Eastern Europe

CEE countries began receiving and using the first EU funds during the period 2000-2003. These were the pre-accession funds ISPA, SAPARD and PHARE 2000. In the current second period, 2004-2006, after their accession to the EU, they have been receiving the 'normal' structural, cohesion and rural development funds. Bulgaria and Romania are continuing to receive the pre-accession funds until their accession to the EU in 2007. All CEE countries are now preparing for the next funding period, 2007-2013.

Current reform of the EU cohesion policy

In 2005 and 2006, crucial decisions will be taken on how the next generation of EU Funds in the period 2007-2013 will work and what will be financed.

At the EU level, *new regulations* are in preparation that will define the rules for the EU funds for 2007-2013. The European Commission published its proposals for the new regulations in July 2004. Since then, the proposals have been debated by the member states in the European Council and by the European Parliament. The regulations will be followed by the *Community Strategic Guidelines*. The Commission's proposal is expected in May 2005. The Guidelines will set the common EU priorities for which the Member States and regions should use EU funding in 2007-2013.

Within the Member States (and in the regions in some of them), the programming process is going on at the same time: respective authorities are planning how they will use the incoming funds in 2007-13. The Member States have to draft a general *National Strategic Reference Framework* and the more specific *Operational Programmes*. These documents will then be negotiated with the European Commission, probably between the end of 2005 and mid-2006.

NGOs: watchdogs for the proper use of EU taxpayers' money

Non-governmental organisations (NGOs) play an important watchdog role in securing the proper use of EU funds. NGOs not only criticise mistakes and see negative impacts, but also suggest good alternative solutions. By bringing independent expertise, raising public awareness, initiating debates, and monitoring the workings of authorities responsible for the funds, NGO involvement helps secure transparent and democratic decision-making and contributes overall to a more effective use of scarce public resources. The participation of NGOs also leads to an improved quality for selected projects, helps offset the disproportionate influence of construction lobbies on the use of the funds, and curbs potential cases of fraud or corruption.

At the same time increased public participation in decision-making greatly adds to the democratic political culture and good governance. Expertise brought by the NGOs also supplements the often limited administrative capacity of the authorities in the CEE countries.

The involvement of *environmental* NGOs (ENGOS) in particular is important for ensuring that the EU funding allocations encourage sustainable patterns of development in the EU regions, respect European and national environmental priorities and laws, and do not contribute to environmental damage.

The involvement of NGOs is naturally only one of the steps to increase transparency in the use of the EU funds. It needs to be accompanied by changes in the legislation and procedures for the whole process of EU funds management (the supervision of tenders, the selection of projects, the responsibilities of implementing agencies, etc.).



Photo: Za Zemiata

Public consultation for the National Hazardous Waste Centre, Bulgaria, to be funded from ISPA.

Partnership principle

NGOs do most of their work on the EU funds independently, outside of the official structures. However, they can also be involved alongside national, regional and local authorities in official partnership bodies overseeing different stages of the funds operation. These bodies include:

- working groups set up for preparing the **programming** documents;
- steering committees or working groups, which help with **implementing** the Operational Programmes and pre-selecting projects to be funded;
- **Monitoring** Committees, which keep an eye on the effectiveness and quality of the Operational Programmes.

Such cooperation between various authorities and NGOs is based on the partnership principle enshrined in the EU funds regulations. When allowed to participate in a given committee, NGOs normally nominate or elect their representative who then reports back to all NGOs regularly.

Why is partnership important?

An independent evaluation report for the European Commission¹ on the partnership principle concluded that partnership was a key to the success of the EU funds for the following reasons:

- Broader participation gives more legitimacy to the EU cohesion policy;
- Properly implemented partnership leads to better coordination of the EU funds;
- The involvement of partners in the monitoring of EU funds improves the transparency of their use;
- The inclusion of partners also leads to better absorption of the funds through improved selection of projects and dissemination of information to potential project promoters.

Partnership in the current regulation and in practice

The partnership principle in the current regulation for the EU funds² states that "the Member States shall ensure broad and effective involvement" of regional, local and other public authorities, economic and social partners and "any other relevant competent bodies" in the programming, implementation, monitoring and evaluation of the EU funds.

As a result of this vague formulation, which leaves NGO participation up to the goodwill of national authorities, the situation regarding involvement of NGOs in the management of the EU funds varies substantially in the different Member States. While some authorities take

¹ John Kelleher, Sarah Batterbury & Elliot Stern. "The Thematic Evaluation of the Partnership Principle. Final Synthesis Report." The Tavistock Institute, February 1999.

² Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds.

the partnership principle seriously and invite NGO representatives into the partnership structures alongside the authorities and economic and social partners, other authorities for different funds or at a different stage of operation (often in the same country) exclude them. This can negatively affect the quality, efficiency and transparency of the use of EU resources in such countries.

Even if NGOs are invited into partnership structures, they often encounter other problems, such as:

- the appointment of NGO representatives by the authorities instead of allowing NGOs to elect their own representatives in an open and fair process;
- problems with access to information;
- unclear and changing rules;
- non-transparent project selection process;
- a lack of capacity to participate fully.



Photo: Za Zemiata

Public consultation for the EU funded Sofia-Pernik motorway, Bulgaria. The approved route is opposed by the affected local population.

Partnership in the new regulation

For the 2007-2013 period, the European Commission is planning to somewhat loosen its control of the funds management and shift more responsibility to the Member States and regions. While decentralisation is welcome, it further increases the need for partnership with NGOs who can play the role of watchdogs intent on securing the correct use of EU taxpayers' money by each Member State. Without opening the EU funds to more public scrutiny and participation, control of them may become too concentrated in the hands of the national managing authorities. Experience shows that beneficiary countries have not always been

able to develop transparent mechanisms for the management of the funds and there have even been cases of misuse and corruption.

The Commission's proposal for a new regulation for the EU funds³ unfortunately makes only a small improvement in the existing partnership principle. Instead of "any other relevant competent bodies" it speaks more explicitly about "any other appropriate body representing civil society, environmental partners, non-governmental organisations, and bodies responsible for promoting equality between men and women". This phrase is a small step forward but still fails to provide clear and obligatory rules for NGO involvement.⁴

Thus, the actual main improvement for the next funding period is that the provisions for partnership will also apply to the Cohesion Fund and the new rural development fund (EAFRD).⁵ The previous regulations for these funds included hardly any provisions on partnership. In addition to the wording in the proposed regulation for the EU funds, the proposed regulation for EAFRD specifically mentions 'environmental organisations' on the list of partners.

It is now up to the European Council and European Parliament to negotiate and adopt the new regulation (by Summer-Autumn 2005). Some Member States in the European Council have actually opposed the new phrase on civil society in the Commission's pro-

³ Proposal for a Council Regulation laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund COM(2004)492, 14.7.2004.

⁴ Another sign of the Commission's own weak and inconsistent stance on civil society participation is that it has not allowed any consultation on the strategic guidelines for cohesion policy, while at the same time it has done so with the strategic guidelines for rural development. This contradicts the Commission's own White Paper on European governance and the minimum standards of consultation of 2002.

⁵ The Cohesion Fund will be governed by the general regulation for the EU funds (and a specific regulation for CF). EAFRD will be governed by a separate regulation, see: Proposal for a Council Regulation on support for rural development by the European Agricultural Fund for Rural Development (EAFRD), COM(2004)490, 14.7.2004

posal, and would rather keep the old, even less explicit formulation. On the other hand, the draft report of the European Parliament⁶ "rejects any weakening of the principle of partnership as envisaged in the original proposal and calls for the maintenance of the list of appropriate bodies which also should include environmental NGOs and bodies representing the disabled".

Given the decentralisation of the funds management and the increased amounts of public resources at stake, the Parliament and Council need to set clear and binding rules for partnership. NGOs should be explicitly mentioned in the partnership clause and their involvement in the partnership structures should become compulsory for all Member States. Since many EU funded projects have significant environmental impacts, environmental NGOs should also be specifically mentioned as obligatory partners. The regulation should also define a clear common minimum framework for participation, e.g. regarding access to timely and sufficient information, rules on commenting process, etc.

Public participation through SEA and EIA

Besides the partnership principle, the procedures for Strategic Environmental Assessment (SEA) and Environmental Impact Assessment (EIA) offer another opportunity for the public to participate in the EU funds operations.

EIA and SEA are procedures for preventing and limiting negative environmental impacts, which involve consultations with the public. Their outcomes (e.g. suggested alternatives or mitigation measures) should be taken into account in decision-making. EIA and SEA are especially important for programmes and projects to be financed by the EU funds, which include large infrastructure construction that may have significant environmental impacts.

⁶ Draft Interim Report PE 355.471 by Konstantinos Hatzidakis, Regional Development Committee.

EIA applies to concrete projects, and includes consultations with local communities that may be affected by them. SEA is supposed to be carried out at a higher and earlier stage of plans, programmes or policies. In 2005, therefore, SEA should be carried out by all member states for the newly prepared EU fund programmes for 2007-2013, as part of their broader *ex-ante* evaluation.

If applied correctly, SEA and EIA can be powerful and effective tools for public participation and for minimising environmental damage. Unfortunately, environmental assessments carried out for EU-funded programmes and large projects in CEE countries have so far been usually dogged by serious deficiencies. Too often effective public participation in the assessments was precluded and the opinions of local citizens and NGOs were neglected. In many cases EIA came only after decisions had been taken on concrete project characteristics (such as the project site, motorway route, selected technology etc.).⁷ Thus, EIA often serves as a justification for pre-cooked decisions taken behind closed doors rather than as a basis for selecting the optimum project vari-



Photo: P. Doucha

EU funded Prague-Dresden motorway, cutting through the Krusne Hory nature park, Czech Republic.

⁷ This was the case, for example, with the following major projects funded from the pre-accession fund ISPA: Sofia-Pernik motorway in Bulgaria, Prague-Dresden motorway in the Czech Republic, the North-West Estonian waste management centre, the Szolnok waste management centre in Hungary and the Bielsko-Biala-Cieszyn expressway in Poland. These cases are analysed in: *Making EU Funds Work for People and the Environment: Case Studies from Central and Eastern Europe*. CEE Bankwatch Network & Friends of the Earth Europe, June 2004.

ant or improving the project, while the value of public opinion is denigrated. Such an approach counters the spirit of the law and makes assessments meaningless.

Given the increased transfers of EU monies into CEE countries expected in the period 2007-2013, it is extremely important that these countries carry out environmental assessments correctly, and that the Commission insists more assertively on their proper implementation. As a first step, the SEAs to be carried out in 2005 for the new draft programmes need to involve meaningful consultations and be organised early enough to still permit necessary changes in the programmes.

Positive examples from CEE countries

The following section presents some of the more positive examples of NGO involvement in the period 2000-2006, examples that are worthy of promotion in other countries.

Poland: NGOs *elected* to Cohesion Fund steering committees

Through an open and democratic election process, two ENGO representatives were nominated to each of the two Cohesion Fund steering committees (for transport and environment), whose task is to pre-select projects for funding. In the committees, the ENGO representatives advocate for more transparent selection criteria, highlight the importance of EIA for project selection or emphasise the need to use the fund resources to implement the EU's environmental legislation. Of crucial importance is that the two representatives consult local NGOs on particular projects reviewed in the committee. Regular and mutual communication between the representatives and the wider NGO community through special email lists and websites makes NGO participation in the committee much more effective. Unfortunately, when the committee for transport was reformed in 2004, the Ministry of Infrastructure ignored the democratic election procedure and nominated only one NGO representative itself.

Estonia: Achievements in programming and implementation

While the first national programme under the structural funds for 2000-03 was prepared with almost no public participation and without SEA, the second programme for 2004-2006 was much more participative. About 80 different social partners were consulted, including several ENGOs. One-third of the ENGO comments were taken into account and incorporated into the draft programme. Later on, unfortunately, the participative process took a downturn: the government suddenly altered the agreed priorities and the entire process started anew with less public involvement. SEA was nevertheless conducted, after much NGO pressure.

For the implementation of the programme, ENGOs were offered two seats in a steering committee overseeing the development of environmental infrastructure under the structural funds (ERDF). One of the two ENGOs did not accept the direct appointment and instead selected the representative through an open procedure. Backed with solid arguments, the ENGO representative was able to vote through important proposals in the committee, for example in favour of renewable energy and nature conservation. The 2007-2013 programming was started without NGO participation but after strong pressure from ENGOs the government adopted public participation principles for the programming process.

Hungary: NGO hired to help with project selection

The Hungarian governmental authority has subcontracted The National Society of Conservationists (NSC) – a leading Hungarian ENGO – to evaluate the environmental sustainability of projects under the Regional Operational Programme. NSC set up a group of 10 experts from local member groups who have already evaluated hundreds of projects. Most projects were approved by the ENGO experts, some were highly promoted and some were refused or asked to supply additional information. NSC suggestions to improve the environmental criteria in the calls for project proposals were also accepted.

Lithuania: Conflicts of interest prevented thanks to NGO pressure



Photo: Atgaja

Advocating for transparency in EU funded wastewater projects, Lithuania.

Wastewater from Kaunas and other Lithuanian cities is causing pollution in rivers and in the Baltic Sea. Wastewater treatment plants are therefore being built, often financed by the EU funds. The Lithuanian ENGO Atgaja has been calling for such plants for many years and fully supports these projects. However, during the tender for

the EU-funded biological wastewater treatment plant in Kaunas, allegations spread about a lack of transparency and possible violations of procedures during the selection of the construction company. When Atgaja investigated the situation, it found that violations of procedures were also possibly occurring in similar wastewater treatment projects in other cities. After Atgaja alerted the officials and the media and organised a public protest, the authorities cancelled the Kaunas project in December 2004 – mainly out of fear that if the violations are proven, Lithuania would risk losing its EU funds. Lessons were learned and a new tender was announced in 2005. Despite the delay, possible violations were prevented and financing from the EU was secured for this useful project. This will help reduce conflicts of interest and increase transparency in EU-funded projects in Lithuania in the future.

Slovakia: Anti-corruption measures proposed by an NGO watchdog and adopted by the government

In March 2001, a systematic misuse of pre-accession funds in Slovakia erupted into a corruption scandal. A lack of transparency allowed a few individuals to steer the EU aid to companies of their choice as well as for their own gain. Revelations from the media and NGOs re-

sulted in a change in both the EU's and Slovakia's management of the funds. Afterwards, the Centre for Environmental Public Advocacy (CEPA), which was instrumental in revealing the scandal, initiated the formation of a national NGO watchdog team to monitor the EU funds.

The watchdog team currently comprises 20 various NGO representatives, including members of different monitoring committees. The team systematically exchanges information and regularly meets, provides independent information on the EU funds to the public, municipalities, and the media, and works out policy and legal proposals. For example, it initiated legal measures to increase transparency and to prevent conflicts of interests, abuses and corruption in EU funds management. The proposal was adopted by the Slovak government in August 2004 and became obligatory for all managing authorities. Thus, from being a bad example of EU funds management, Slovakia may have turned into an example worth promoting in other countries.

The need for NGO capacity-building

Participation in the partnership structures for the EU funds requires reading through large quantities of documents and demands a lot of expertise and technical knowledge. NGOs in the monitoring, steering and programming committees are often valued for their professional, knowledge-based and constructive approach. However, their capacity as non-profit organisations is limited, especially in Central and Eastern Europe. NGOs are usually not even reimbursed for the direct expenses related to their participation (the costs of travel to committee meetings, overnight stays, the hiring of experts). In contrast to the state authorities, no technical assistance from the EU funds is usually available to NGOs working in the partnership structures.

As more and more authorities are gradually recognising the benefits of NGO partnership and the space for participation is slowly opening, this limited capacity is becoming a restriction to participation. Even with better standards for partnership applied across the EU, the involvement of civil society will not occur without capacity building and the provi-

sion of more resources for NGO work. To avoid participation being hampered by a lack of resources, NGOs should be supported through training, capacity building and the coverage of direct costs.

One recent positive example comes from Poland, where the government has proposed to set up a special Operational Programme – Civil Society to support public participation in the 2007-2013 period.

Recommendations

1. The European Parliament and Member States in the European Council should **improve provisions on partnership in the new regulations on the EU funds** so as to make the involvement of NGOs at all stages of EU funds operation compulsory for all Member States and to define clear and common minimum standards for participation.
2. While the detailed design of partnership structures should be left to Member States and regions, the **European Commission should publish a communication or guidelines on partnership** in order to universally raise the standards for the involvement of NGOs in EU funds operations throughout the Union. Member States should be required to report to the Commission on how the partnership principle has been implemented.
3. Given the benefits of NGO involvement in the EU funds and the planned decentralisation of their management, **NGO participation in the EU funds partnerships needs to be supported through training, capacity building and the coverage of direct costs**. The Commission should require Member States to support NGOs involved in partnerships from the Technical Assistance budget or the Global Grants scheme or by setting up a special Operational Programme for civil society (as in the current Polish proposal). Alternatively, the Commission should consider creating a new European support fund for the capacity building of such NGOs under Article 43 of the new regulation for the EU funds.

4. The Commission must insist on the **proper implementation of SEA and EIA** in all Member States. The EIA and SEA must be conducted at an early stage of decision-making, involve effective public participation, and the results must be taken into account in decision-making. Any undue influence from the project promoter over the EIA and SEA process outcomes should not be acceptable. No funds should be allocated for programmes and projects where SEA or EIA are not carried out correctly, especially where public opinion is neglected without explanation.
5. The Commission and Member States should consider the following suggestions in order to **increase transparency and participation specifically for major projects**⁸:
 - a) create a simple and easily accessible **compliance mechanism** for major projects to assess their compliance with EU and national (especially environmental) legislation;
 - b) **gauge public opinion** on major projects when their appraisal is conducted. Since major projects need significant financing by taxpayers, they should not be decided upon by just a small group of experts.
6. The Commission should encourage Member States to **follow the example of Slovakia and adopt specific anti-corruption measures** in order to prevent any misuse of the EU funds.

⁸ 'Major projects' are defined in the EU funds regulation as projects whose total cost exceeds €50 million (or €25 million in the case of projects in the field of environment).

Further reading

CEE Bankwatch and Friends of the Earth Europe materials

Best Available Practices: Public Participation in Programming, Implementing and Monitoring EU Funds. CEE Bankwatch Network, Friends of the Earth Europe, Institute of Environmental Economics, September 2004.

http://www.bankwatch.org/publications/studies/2004/best_practices_10-04.pdf

Public participation in programming, implementing and monitoring EU structural funds and the cohesion fund - environmental context. A legal analysis. Marcin Stoczkiewicz, Environmental Law Center. CEE Bankwatch Network, Institute of Environmental Economics, September 2004.

http://www.bankwatch.org/publications/studies/2004/legal_analysis_12-04.pdf

"Partnership Principle in Practice: NGO Involvement in the EU Funds Programming, Management and Control." Proceedings of a conference in Brussels, October 21-23, 2004.

http://www.coalition-on-eufunds.org/oct_seminar_2004/

Making EU Funds Work for People and the Environment: Case Studies from Central and Eastern Europe. CEE Bankwatch Network & Friends of the Earth Europe, June 2004.

http://www.foeeurope.org/publications/2004/eu_casestudies_June2004.pdf

Billions for Sustainability? Lessons learned from the use of pre-accession funds. CEE Bankwatch Network & Friends of the Earth Europe, November 2002.

http://www.foeeurope.org/publications/2002/Billions_for_sustainability.pdf

Other NGO materials

"Civil Society as a Partner in European Union Structural Funds". European Citizen Action Service, November 2004.

The illusion of inclusion: Access by NGOs to the structural funds in the new member states of eastern and central Europe. Report for the Euro Citizen Action Service. Brian Harvey Social Research, July 2004.

Partnerships for Sustainable Development? Report on the Structural Funds Programming Process in Central Europe. Milieukontakt Oost-Europa, February 2004.

Public Participation in Strategic Environmental Decisions: Guide for Environmental Citizens Organizations. Svitlana Kravchenko, European ECO Forum, December 2003.



10 reasons for opening the EU funds to greater civil society participation

Civil society involvement in the EU funds operations:

- 1** improves transparency and prevents fraud and corruption
- 2** offsets the disproportionate influence of construction lobbies on the use of the funds
- 3** leads to the funding of better quality projects and an improved absorption of the funds
- 4** supplements the limited administrative capacity of national authorities
- 5** brings independent expertise and a variety of concerns to the EU funds operations: the environment, gender equality, social inclusion, the needs of the handicapped, quality of life, etc.
- 6** contributes to more effective use of European taxpayers' money
- 7** contributes overall to a democratic and participative political culture
- 8** strengthens both society's ownership sense of the funded projects and the legitimacy of the EU cohesion policy
- 9** makes for a real decentralisation of the EU funds
- 10** is a necessary response to the increased allocation of EU resources to be spent (EUR 336 billion planned for 2007-2013)

