

The added value of the ‘formal’ stakeholder consultation process

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We often hear ‘formal’ stakeholder consultation processes described as time-consuming and bureaucratic, undertaken without adequate information, real representation, or time to discuss and report back. Too often they are carried out as a formality with no chance of influencing well-established mechanisms of non-transparent decision-making.

We will argue here that this negative view may be challenged and that there are formal tools in the current regulations and procedures that could allow a more effective participation by different stakeholders in policymaking.

We will examine how formal stakeholder consultation fits into the partnership principle in Europe, how it works in theory and practice, with some examples, and how it can be made more effective in the coming years.

Background

The general theory behind partner public/private consultation is that it provides a common arena where different positions of stakeholders may be openly expressed, confronted and discussed, acknowledging differences between public and private views, but also between different types of stakeholders.

For example the views of an environmental organisation representative in the formulation of a measure may be quite different from that of a farmer organisation representative. Instead of competing for influence in a non-transparent way, a formal consultation allows all stakeholders to intervene openly.

Managing authorities can hear all the arguments - which need to be informed and convincing for the general interest - acknowledge agreements and disagreements, offer compromises and in some cases reach a shared understanding of objectives and priorities, implementation difficulties and lessons learned.

The *formal* nature of the discussion is important here since it gives legitimacy to public decision-making and in no way precludes other informal exchanges between stakeholders.

The partnership principle

Formal stakeholder consultation has been included in European regulations since the 1988 reform of the EU Structural Funds. Stakeholder consultation was included as an integral aspect of the partnership principle, which provided the key framework for the functioning of the EU multi-level governance system.

The partnership principle evokes a peer relationship between partners, with different roles attributed to each in the design, implementation and supervision of rural policy.

The parity status of partners was an important innovation in terms of European governance. This differed from the typically more centralised organisation, often quite hierarchical, of individual Member States, between the national, regional and local levels.

These principles have underpinned successive programming periods until today. However, the stakeholder consultation component has never been implemented in a fully satisfactory way, as many evaluations and stakeholders have pointed out.

Evolution of the partnership principle

While the two key components of the partnership principle –the public partners and the private stakeholders- have remained constant over the years, important changes have been introduced during its “evolution”:

- On the one hand there has been a gradual consolidation of **public institutional partnerships**, which has become the key feature of the EU multi-level governance system, with a more clear definition of who does what in such partnerships.
- On the other hand, the **stakeholder consultation procedures** have been formalised in detail, shifting from a suggested – and only loosely defined - good practice to a well codified obligatory task, well integrated in the functioning of the public institutional partnership.

Back in 1988, the partnership principle was described as consisting of “close consultations between the Commission, the Member States concerned and the regional and local level, with each party acting as a partner in pursuit of a common goal” and having to “cover the preparation, financing, monitoring and assessment of operations”.

This partnership also involved a “consultation with economic and social partners, exemplified as chambers of commerce, industry and agriculture, trade unions, employers”.

Both the vertical chain of public actors and the horizontal dialogue with private stakeholders were included in the EU’s understanding of partnership.

The “official institutional partnership” between public partners was a formal requirement for the joint management of the Structural Funds and well-articulated.

However, the participation of private stakeholders was left more vague and only suggested as a good practice to improve the quality of interventions.

Since 2014, the most recent formulation of the partnership principle has strengthened, expanded and articulated in much greater detail the consultation procedures with private stakeholders.

In the current regulations, partnerships are understood as “close co-operation between public authorities, economic and social partners and bodies representing civil society at national, regional and local levels throughout the whole programme cycle consisting of preparation, implementation, monitoring and evaluation”.¹

The updated partnership principle serves as the legal framework and informs all phases of programming, including how stakeholder involvement needs to take place at each stage. It is no longer a suggestion but an obligation and provides indications on the criteria for selecting partners and representativeness, obtaining information, making all voices heard, providing capacity building, networking and the dissemination of good practices.

The motivation for such formal strengthening is that whenever such consultation takes place genuinely and effectively the programmes are more effective. The decision-making processes, although they remain the sole responsibility of the public partners, are more knowledgeable and transparent. Stakeholders are better informed and empowered, policies better understood and used.

The partnership principle in rural development policy-making

The partnership principle is the key rationale for the 2014-2020 programming period. According to the current regulations, formal stakeholder consultations, within the framework of the partnership principle are required for:

- Preparation and implementation of the Partnership Agreement for all the ESI funds
- Preparation of Rural Development Programmes (RDPs) for the EAFRD funds
- The Monitoring Committees of each RDP
- Evaluation of programme findings

- **The partnership principle at EU level**

¹ COM, 2014, *European code of conduct on partnership*, pg.6

In the **Common Strategic Framework** (CSF) establishing the strategic priorities for the EU as a whole, the partnership principle guides both the dialogue between the EU and Member States' managing authorities during its implementation, as well as the EU level co-decision procedure in designing all the regulations.

In the formulation and approval of the regulatory package for the ESI Funds, the decision-making follows a legislative procedure and a consultation procedure. When the Commission takes the initiative to make a regulation proposal, it is submitted to the Council (where Member States are represented) and the Parliament (with directly elected deputies) for amendments and approval (through co-decision). Only then the amended text becomes law.

In drafting its regulation proposals, the Commission follows an internal consultation between Commission services (the inter-service consultation). Also, the Commission assesses the potential economic, social and environmental impact of its proposals with a separate working group, consults interested parties (NGOs, local authorities, representatives of the different funds' stakeholders, civil society), may establish parallel expert groups and launches open public consultations on its website.

Later in the process, during the different phases of implementation of RDPs, the Rural Development Committee at EU level assists the Commission in its supervision role. These procedures imply that there are formal stakeholders' consultation of different public and collective private actors also at EU level, when regulations are prepared.

- **The partnership principle at Member State level**

In the Partnership Agreements prepared at Member-State level (covering all ESI funds), as well as in the **Rural Development Programmes** (EAFRD), the partnership principle includes formal stakeholder consultations.

The two documents involve a different set of representatives in each case. The procedures followed should be transparent and in accordance with the institutional and legal framework of the concerned Member State.

The results of such consultations, and how they have been taken into consideration in the programming documents needs to be reported back to the Commission.

Such procedures are now explicitly described in the **European Code of Conduct on Partnership**, a Commission delegated act, considered as an integral part of the regulatory package.

Who are the rural development policy stakeholders?

Partners in a consultation need to be adapted to the issue discussed. For example, the partners involved in the preparation and implementation of the Partnership Agreement need to include stakeholders involved in the use of all the ESI Funds. For the RDPs, only the stakeholders involved in the use of the EAFRD funds need to be involved.

In the specific case of RDPs, the identification of stakeholders includes, as a minimum requirement:

- the competent regional authorities;
- national representatives of local authorities active in rural development policies of the Member State concerned;
- economic and social partners; and
- civil society bodies, environmental organisations, NGOs, bodies responsible for promoting social inclusion, gender equality and non-discrimination.

The European Code of Conduct on partnership makes an explicit reference to the role of NRNs under the Partnership Principle: “As regards the rural development programmes, Member States shall take account of the role that the national rural networks [...] can play involving relevant partners.”

Different stakeholders should propose representatives who are informed, have discussed their position, report back on the positions taken by other stakeholders, and are able to provide continuity in their representation task.

The role of monitoring committees

The Monitoring Committees are the main arena where formal stakeholder consultations have taken place around the rural development programmes. These bodies operate during the implementation stage of programmes and their functioning is legally regulated.

Within the framework of the overall regulation and the Code of Conduct, the membership of the Monitoring Committee for each RDP is decided by the Managing Authority concerned.

Once it has been established, the Monitoring Committee defines the rules and procedures for its own functioning. The key aspects in this context are:

- how voting rights are distributed among members;
- the quality and timeliness of the information received by members on agenda items for meetings;
- the open availability of preparatory documents for the wider public;
- the ex-post publication of the meeting minutes’;
- the arrangements for organising working groups;
- how to deal with possible conflicts of interests for partners; and
- how technical assistance resources should be used.

Monitoring Committees typically meet twice a year and discuss and approve implementation progress reports before they are sent to the Commission.

However, there is in practice a great variety in the ways chosen by Managing Authorities to organise and use Monitoring Committees. Two examples from Ireland and Mecklenburg-Vorpommern in Germany (presented here in boxes) give a flavour of the variety of approaches taken.

Ireland
Monitoring Committee for the 2014-2020 RDP

Organisation of work:

- Meets at least once a year
- Reviews RDP implementation and evaluations
- Issues an opinion within four months of the decision approving the programme or any amendment to it and on selection criteria for funding; and
- Participates in the National Rural Network (NRN)

Composition:

- Farming and rural bodies
- Regional/local government
- Environmental and equality interests
- Relevant Government Departments and bodies
- The Managing Authorities of the ESI funds
- The EU Commission participating in an advisory capacity

Source: Irish Draft 2014-2020 Rural Development Programme

In assessing how German RDPs had worked, the Commission services state that “although the involvement of NGOs, environmental, economic and social partners is usually satisfactory in the monitoring committees of all German RDPs, their role has been very different from programme to programme.”²

Mecklenburg-Vorpommern, Germany
Monitoring Committee for the 2007-2013 RDP

Organisation of work:

- Meets frequently, five to six times per year
- Has a real say in decision-making on proposed projects
- Public and private partners have the same number of votes
- The participatory system includes working parties and other consultative bodies

Composition:

- High-level representatives from the private sector –trade

² COM, 2012, *Position of the Commission Services on the development of Partnership Agreement and programmes in Germany for the period 2014-2020* p. 34

unions, employers, small enterprises, chambers, farmers, environment and social welfare associations

Source: The European Code of Conduct on Partnership in the Framework of the ESI Funds, 2014, pg 18

Consultation structures for RDP preparation

Consultation of stakeholders in the preparation of the rural development programmes (RDPs) is just as important as consultation on their implementation.

For the preparation of rural development programmes, stakeholders should be consulted, inter alia, on:

- the analysis and identification of needs;
- the definition or selection of priorities in relation to specific objectives;
- the elaboration of a strategy;
- the allocation of funding to the different measures;
- the definition of indicators; and
- the implementation of horizontal principles (social inclusion, gender equality and non-discrimination);

Given that Monitoring Committees are often only established under the RDPs to support their implementation, these bodies often do not provide the necessary structures to enable stakeholder involvement in the preparation of RDPs.

As a result, other consultation structures are used, such as official ad hoc meetings by invitation, or position papers prepared by different stakeholders.

The Commission Services' initial assessment of the development of rural development programmes Germany, 2014-2020 found that "Generally partners should be more involved especially at the critical stage of programme development (not only after decisions have already been adopted) where the voice of partners is not sufficiently heard... this could strengthen the programme's acceptance at the local and regional level."³

Has the partnership principle worked in practice?

The partnership principle has developed from a great European innovation to something that is better accepted and understood, often influencing national procedures. However, this process and the development of truly effective stakeholder consultation takes time and capacity building for public administrators.

In the *Emilia Romagna Region in Italy*, RDPs were managed separately from other regional investment programmes in the 1990s, with different managing

³ COM, 2012, *Position of the Commission Services on the development of Partnership Agreement and programmes in Germany for the period 2014-2020 p. 34*

personnel, structures, and consultation, monitoring and evaluation procedures. The administrations were even in separate buildings.

Over time however, the two administrative worlds have gradually merged, with some EU practices filtering through, integrating with regional ones. The co-funding procedure and state aid regulations have further strengthened the gradual merger of different administrative and funding cultures.

Stakeholder participation has now become a standard and accepted practice.

Nevertheless, despite the common framework, it should not be very surprising that Member States have implemented the principle in very different ways.

This is largely due to the very different institutional arrangements in place to start with: centralised or decentralised; different types of bodies as managing authorities in different sectors; different administrative backgrounds and procedures etc.

On the stakeholder side, the partners may also be more or less empowered and organised, adopt conflict and competition strategies rather than reaching consensus through negotiation, and disregard the voice of local and small communities or minorities.

In *Spain*, there were no relevant programmes with the logic of the Structural Funds before joining the EU. This meant that as the country started to develop these programmes for the first time, the EU's partnership principle and consultation procedures were adopted quite rapidly from the beginning and informed all rural regional policies.

The Leader Community Initiative, is an excellent case of this: the local public-private partnerships embodied in Local Action Groups became so successful, that Spain decided to replicate it as national programme with the PRODER initiative.

What can be done to promote positive implementation of the partnership principle?

The Code of Conduct on Partnership is an excellent input for promoting a more positive and widespread implementation of formal stakeholder consultation in different Member States. It codifies the knowledge accumulated so far on the matter and diffuses it openly, making it a reference for all partners.

Furthermore, and most important, it indicates new areas in which partnerships may be improved, such as the involvement of partners in the evaluation of programmes, the need for capacity building in this area, the role that the Commission and existing European networks could play in the dissemination of good practices and exchange of experiences –particularly relevant in the current stage of preparation of programmes-.

An additional aspect that could be explored to promote a better implementation of the partnership principle is that of connecting better the different forms of consultation at different institutional levels in the EU. Each institutional level – EU, national, regional, local - has developed its own specific consultation methods, but these rarely communicate with each other or are considered together. Each partnership system, whether it works well or not so well, is self-contained.

It is important to understand the different procedures for consultation and how these influence the participation of stakeholders at different levels. The question here is not so much to exchange practices, but to know the outcomes of consultations at EU, national, regional and local level, and what feedback they provide in terms of policy needs and decision-making.

In this task the ENRD and the NRNs, which have played a modest role in consultations so far, could provide a precious support in facilitating exchanges and information between different types of stakeholders. They could offer capacity building for organising consensus and provide informal support for improving participation where it is currently weak - as in the case of the preparation phase of strategies and programmes.