The Greens | EFA
in the European Parliament

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EXECUTIVE SUMMARY

The Commission could do better is an initiative of the Greens/EFA group in the European Parliament which was taken in order to encourage the European Commission to work towards better partnership with civil society organisations in managing EU financial resources available for Europe's civil society.

The present report is based on case studies, interviews and other existing research by a wide range of organisations and bodies on this issue; it not a compendium of what goes wrong; it is an attempt to analyse the weaknesses of existing instruments for civil society involvement, such as the Financial Regulation, its implementing rules, calls for proposals, contracts and auditing. But it is also meant to help achieve a good practice by suggesting solutions for a better implementation and easier management of funds. The most important part of the report includes recommendations on how the Commission could improve financial partnership with civil society in the future.

1. "The involvement of civil society in EU Programmes" (chapter 2) provides a brief panorama of the main types of programme that are available for civil society organisations, and the difficulties to access these funds. The main conclusions are:

> The implementation of the Commission's budget lines for *direct project management* are defined by the Financial Regulation and its Implementing Rules. There is currently both an urgent need and an opportunity for improvements. There is great variation in the way in which the rules and regulations are interpreted between departments, units and even individual civil servants in the Commission. *The Commission should invest into a clear interpretation of the rules which civil society organisations must respect and proactively inform these organisations about any changes of the rules or interpretations;*

> Community Initiatives such as Leader and Equal will be mainstreamed or phased out after 2007. These initiatives have strengthened the "partnership principle" contained in the Structural funds regulations, and provide greater civil society involvement in, and access to EU funding. The LEADER method is particularly interesting in that it is the only programme to reserve 50% of partnership contracts for non-public organisations. EQUAL, however, will disappear in the next round and the system of co-financing in INTERREG and URBAN make them far less accessible to civil society. *The Commission should study ways for extending and opening up the partnership principle in all structural funds and remaining Community Initiatives (Interreg) in order to increase the involvement and access of civil society to EU funding*.

2. The "Main financial problems affecting the European Commission and Civil Society" (Chapter 3) argues that the Commission faces a dilemma: on the one hand it is under constant pressure to tighten financial control and prevent mismanagement or fraud. But on the other hand, people are withdrawing from EU programmes and losing trust in a poorly understood and too complex system. Furthermore, civil servants are personally reliable for any irregularities which might arise in contacts they have signed. The report identifies a series of transversal principles which reduce the uptake and efficient use of funds

> Too much weight is given to the principle of "economy", so that the Commission's own procedures can be around three times less "efficient" than other highly reputable donors. The principle of "economy" is treated almost exclusively as strict procedural compliance requiring exorbitant amounts of documentary proof. These requirements are even said to go beyond normal auditing standards for the private and public sectors.

There is an extremely strict approach to the financial responsibility of EU authorising officers. This means that honest mistakes committed in “good faith” can, in theory, lead to massive financial liability. Some departments protect themselves by spreading the risk between 2-3 times more signatories than strictly necessary. This is also one of the main causes of delays as officers “stop the clock” and pass the risk on down the line to the final beneficiaries by requiring ever more documentary proof of compliance.

One size is used to fit all. This principle applied by the Commission is the opposite of modern client or user led management methods and leads to situations where the cost of procedures to both the Commission and civil society organisations can outweigh the value of the grant. Some Civil society organisations say that, under normal procedures, it is simply not worth applying for a grant EU grant under 150,000 euros.

Within the Commission, efficiency is often seen primarily in terms of increasing the throughput of grants for a given amount of administrative costs. On the other hand, Civil Society organisations despair that they are required to provide paper evidence of vast amounts of “outputs”. Management and accounting costs rocket while little or no value is placed on the effectiveness and usefulness of their work for the communities they serve.

Finally, little distinction is made between tenders from private companies and calls for proposals from civil society. In the former case the aim is to ensure that the best company wins through a detailed specification and an impartial, competitive process. This is completely different to a call for proposal which relies on a relationship of trust and often means helping to build the capacity of the most vulnerable members of society.

The report presents a framework for analysing the impact of the EUs financial procedures from the point of view of civil society organisations. It does this by posing a series of questions or stages NGOs have to go through when receiving EU funding: “How do we find out?” “Can we apply? (Exclusion criteria), “How difficult is it to apply?” “Can we manage the grant?” What expenditure is covered? (Risks of non-eligibility) and finally, “When can we start and when do we get paid”. Through a series of examples and testimonies it looks at the way in which the principles mentioned above create a series of obstacles for civil society organisations in each of these areas.

These include: the exclusion of some of the smaller and/or most needy NGOs (lack of track record, guarantees, etc); failure rates for grant applications as high as nine in ten; application costs of over one person month; match funding requirements, very little possibilities for contributions in kind, sometimes excessive management, reporting and auditing costs; the ineligibility of certain costs that are necessary for long term survival; risks of cuts in the final grant due to confusion over eligibility and/ or through the application of the so-called "percentage rule"; delays in starting projects of 1-2 years and payment delays of up to a year or more in certain cases.

Delays in starting and paying projects are the most frequent problem mentioned by NGOs. But the framework above makes it clear that these delays are usually caused by more fundamental problems at other points in the grant cycle. The cumulative effects of these obstacles can be so important that some organisations have suggested that EU Funds should come with a “public health warning”.

3. “How to make things better” (Chapter 4) points to five major steps that could be taken to improve the situation. These are:

Consulting with civil society organisations and building a true partnership. The Commission could avoid many of the existing problems if it would consult civil society organisations about the existing Financial Regulations and Implementing Rules at an early stage. There is now the opportunity to amend the Financial Regulation. But over and above consultations, the Commission should commit itself to establishing a clear framework of rights and responsibilities governing a genuine partnership between itself and civil society. One possible model can be seen in the “Compacts” that exist in the UK and other Member States.

Providing technical assistance to increase the capacity of both recipient and donors of finance for civil society. At the level of the donors, the report recommends the creation of an

EU department/unit that becomes a central point of reference, expertise and good practice for all organisations, departments and units which award Commission grants. At the level of recipients there is an urgent need for "investing in civil society's own infrastructure for assisting NGOs". The report provides some examples such as the Welsh Council of Voluntary Action.

Developing a range of grant funding systems which meet the needs of different sizes and sectors of Civil Society. These should include *operating, project and development* funding. One tried and tested method which should be promoted is that of *global grants*. But the general principle is that there should be a move away from the idea that "one size fits all" towards "proofing" all funding mechanisms and procedures for their impact on civil society.

Redressing the balance between risk and responsibility. Checks and controls must not only be proportionate to the task but they must also be based on a relationship of trust (rather than suspicion of wrong doing) between the Commission and civil society. Two changes would make this much easier. The first is to limit the risk of personal liability in cases of honest mistakes made "in good faith". This can be done by clarifying the regulations and their interpretation or by examining insurance. The second is to move away from extreme requirements for "correctness" towards criteria based upon "reasonable assurance" in the design of contracts, reporting, auditing and certification procedures.

Moving towards a client or user led approach in the design of financial and administrative circuits and procedures. As a start in this direction, the report uses the framework presented in the previous chapter to make a series of recommendations for improving the obstacles that NGOs face at different points of the funding process. It distinguishes between recommendations that require changes in the FR and IR and those that do not. Hopefully this will help both civil society organisations and the Commission in future consultations and proofing exercises.

4. The appendix describes some of the specific needs of different sectors and kinds of NGOs. The specific needs of human rights and development NGOs stand out. They operate under especially difficult circumstances where it is often impossible and/or dangerous to meet formal requirements for invoices and for official recognition.

CONTENTS

1. INTRODUCTION

The purpose of this study, launched by the Greens/EFA group at the European Parliament, is to look at how the European Commission could improve the way it funds civil society organisations.

The report comes at a crucial time at the end of May 2005. The discussions on the financial perspectives will determine the size and approximate distribution of the EU budget for the years 2007 and onwards. Civil society will not only be affected by the level of the budget but also by *how* the money is spent. Implementation is recognised as being quite cumbersome in many areas. The Commission, the Parliament and the Council all agree that there is a need for simplification and cutting back on unnecessary bureaucracy. For that purpose, the Commission has come forward with a proposal for a limited revision of the Financial Regulation. Such a proposal should help to improve and facilitate implementation while at the same time maintaining an adequate level of control by the Commission. The Commission has said that it will have “appropriate consultations of "stakeholders" in EC policies who will be affected by the rules”.

EU funding programmes provide an occasion for the European Commission to come into direct contact with local events and actors. The image that beneficiaries get from their experiences with EU funding have a direct reflection on the way that the EU is viewed by citizens. This is one more reason to tackle the complexities of EU funding regulations as a matter of priority.

The next round of the Structural Funds after 2006 is likely to see a reduction in the ability of the Commission to influence implementation. The Commission will lose direct control of around 10 billion euros of Community Initiatives which will supposedly be “mainstreamed”. This study will also look at how a vibrant civil society, with a European dimension, can be strengthened in this situation.

The aim of the report is to take stock of the main *problems* faced by civil society organisations involved in projects financed through EU funds. It has analysed the situation in a number of key sectors such as the environment and rural development, social and employment issues, human rights, local initiatives, cultural issues, and cooperation with developing countries.

But the purpose of reviewing what is *not* working is to help build support for a series of positive changes. The evidence collected in this report will be used in a hearing to be held in the European Parliament on 1 June. We hope that this event and the report behind it will help to create a climate which puts civil society organisations and networks in a stronger position to avoid some of the pitfalls and seize the opportunities of the coming period.

Methodology

The information presented in this report was collected in the following steps.

A preliminary grid was produced on the financial problems faced by civil society organisations based on a set of test interviews carried out on civil society organisations and on desk research.
This grid was sent to and discussed with some the main umbrella organisations representing civil society at a European level[1]. They were able to add to, cut and provide

[1] These include the Funding Development and Relief Working Group of Concord, Solidar (Development NGO’s), the Structural Funds Working Group of the European Anti Poverty Network and the Social Platform (Social NGOs), OSI (Human Rights NGOs), EFAH (Cultural NGO’s), EEB (Environmental NGOs), ECAS (Citizens Action), Prepare and REDR(rural development)

indications of the relative importance of the different problems. They also made recommendations for legislative and other changes.

The grid was then either passed on to some of their members or sent directly to NGO's working on the ground[2]. Civil society organisations were also asked to comment on and provide illustrations of particular problems. This was used as a basis for a series of 16 individual and group and 3 discussions

The main hypotheses were discussed and contrasted with a series of experts in the field

The report has also drawn on existing research by civil society organisations themselves. Particular mention must be made of the excellent report *"Striking the Balance"* [3]written by Paul Firth and commissioned just before this report by OSI, Concorde, the Social Platform, Solidar and the European Women's Lobby. Their report was able to analyse in detail the effects of the Commissions financial management system and its regulations and procedures on its own *efficiency.* This report is trying to complement many of their conclusions and recommendations by analysing the situation more from the NGO perspective and by delving further into the consequences of the financial obstacles for *the effectiveness* of civil society organisations in serving their communities.

Further mention must also be made of the reports produced by the FDR Working Group of Concord[4] and to several reports produced by ECAS[5]. Finally, it has been possible to contrast the position of civil society organisations with a series of working documents produced by the Commission and the European Parliament[6].

Finally a draft of this report was sent for comment to the main civil society platforms and organisations mentioned earlier and several of the experts.

Special thanks are due to Pawel Krzeczunowicz and Maria Winnubst for their extremely perceptive and detailed comments. Above all, thanks are due to the many civil society organisations who sent in testimonies showing, once again, that they not only believe intensely in what they are doing but that they are also prepared to help the Commission to do their job a little better.

In conclusion, it can be said that while the views expressed are solely the responsibility of the author, there is a large amount of agreement on the both the main problems and recommendations. It is hoped, therefore, that the report will help to move forward series of changes which benefit both the European Commission, civil society organisations and, above all the communities that they serve

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[2] For example it was translated into Spanish and sent to over 300 partnerships involved in the Spanish Leader Network, the Czech Civil Society Foundation and the Polish NGO office posted it on their web sites and sent it off to their members, EFAH also circulated it to all their members.

[3] "Striking a Balance. Efficiency, Effectiveness and Accountability". Report by FM Partners. April 2005

[4] "Major concerns raised by NGDOs on the Financial Regulation respective the Standard Contract for Grant Management". Concord FDR Working Group

[5] "The Financial Relationship between NGO's and the European Commission." Andrew Crook. ECAS. October 2004. "Civil Society as a Partner in the EU Structural Funds." ECAS November 2004. "The Illusion of Inclusion. Access by NGOs to the structural Funds in NMS". Brian Harvey. ECAS. 2005

[6]."Rapport sur les Difficultés de gestión recontrées suite a l'introduction du Nouveau Règlement Financier et de ses modalités d'exécution. » Réseau des Unités Financières. Commission Européenne. "Draft Commission Regulation amending the FR and IR." SEC (2004) 1310. "Working Documents 2 and 3 on the reform of the Financial Regulation." European Parliament. Committee on Budgets and Budgetary Control……

2. THE INVOLVEMENT OF CIVIL SOCIETY IN EU PROGRAMMES.

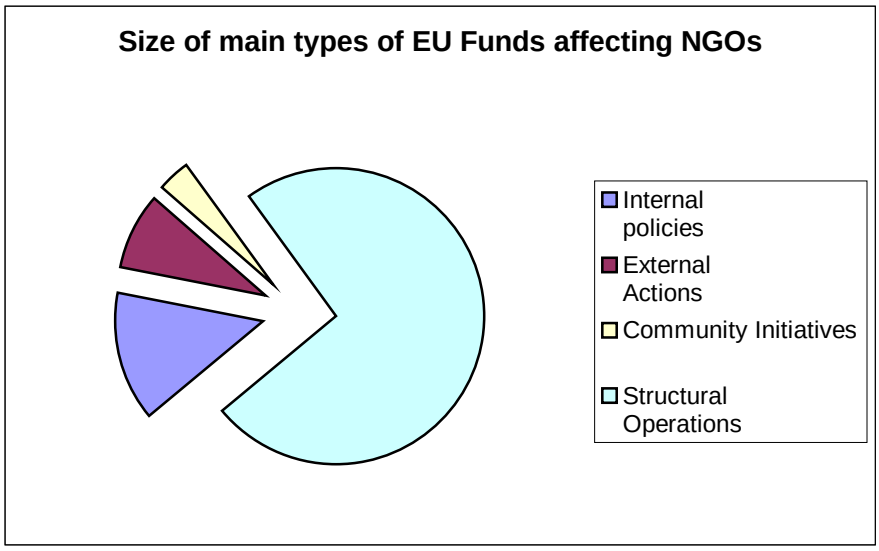
There are three main factors which affect the involvement of NGO's in EU programmes: the content and subject matter of the programmes, the type of programme (direct, community initiative, structural fund…) and the way in which the funds are managed. This report focuses mainly on the last point but in this chapter we will try to put this in the context of the main differences in EU programmes and the way in which this affects the access of NGOs to EU finance.

"Soft" versus "hard" programmes

Firstly, opportunities for NGO participation depend heavily on the content and subject matter of the programmes. For example, there are few, if any, non-profit organisations involved in large construction and civil engineering projects. Similarly, some programmes are tied to small and medium sized private companies or specific groups like farmers.

By definition, this excludes NGOs from large parts of the Regional Development Fund, the Cohesion Fund and the Guarantee and, to a lesser extent Guidance Section of the Agricultural Fund. Nevertheless, *environmental NGOs* are particularly concerned about the environmental impacts of these large-scale investments. Similarly, *social* NGOs organised into the European Antipoverty Network have expressed concern about the way about the way in which a narrowing of EU priorities to focus more exclusively on economic competitiveness and labour markets may exclude many NGO's working upstream with excluded groups that are still a long way from being able to obtain employment.

Secondly, the scope for NGO involvement has been heavily influenced by the type of programme. As there will be major changes in the way in which these programmes are organised in the 2007-2013 period it is important to consider the implications that this could have for NGOs.



Direct financial management and budget lines.

In 2005 the EU' s budget lines directly managed by the Commission for internal EU policies and external EU actions totalled 8,950 meuro and 5, 200 meuros respectively. However, it is extremely difficult to identify the proportion that goes to civil society organisations. The Guide to European Funding[7] produced by the European Citizens Action Service lists at least 66 separate internal budget lines and 50 external budget lines which concern NGOs. These are managed by at least 12 different general directorates and many more directorates and units.

A Commission discussion paper produced in the year 2,000[8] estimated that over 1,000 million euros per annum was allocated to NGO projects directly by the Commission. According to the same source, around 400 million euros and by far the largest proportion of this amount was estimated to go to NGOs working in the field of *external actions* for development cooperation, human rights, food aid and so on. However these estimates contrast directly with others which put the figure as high as 1 [9]or even 2 billion euros pa[10].

The Commissions direct funding of NGOs *under the heading internal policies* was said to be scattered among a wider range of NGOs: - around 70 million euros pa to NGOs in the social field, 50 million towards education and so on.

Many NGOs also participate in the Commission's innovative measures and technical assistance which amounts to a total 114 million euros pa.

By their very nature, many of these direct budget lines are only accessible to NGOs with the capacity to operate at trans-national level and NGOs that have sufficient own funds.

It is also important to distinguish between umbrella organisations and networks receiving *"core or operating funding"* and the vast majority of grass roots NGOs relying mainly on *project funding*. Most of our comments in this report refer to project funding although we also raise some of the main problems identified by NGOs in relation to core funding in the Annex.

The Community Initiatives.

The direct budget lines managed by the Commission are really only the tip of the iceberg of EU funding for NGOs. For example, the four Community Initiatives jointly account for over 2.260 euros of EU expenditure per annum and have always represented an important window of opportunity for non-profit organisations. Moreover, in contrast to many of the direct budget lines, *they are accessible to purely local NGOs.*

However, there are major differences in the way in which NGOs are treated in each initiative

The Leader Community Initiative

Of all the Community Initiatives and direct funding lines, Leader has a partnership principle which is very open to civil society. The approximately 1,000 local development partnerships funded by Leader have to respect *the 50% rule* which specifies that the public sector can have no more than half of the votes on the partnership. In most cases, the lead partner continues to be the public sector in the form of local authorities, but many partnerships respect the three thirds principle with one third of the votes going to the public sector, one third to the private

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[7] A Guide to European Funding. Accessing Europe's Largest Donor. 10th Edition. ECAS.
[8] The Commission and Non-Governmental Organisations: Building a Stronger Partnership. Commission Discussion paper. COM (2000) 11 Final. 18.1.2000
[9] Working Document No 10. Committee on Budgets. 5 June 2003 say that 1.27 billion or 25% of the EU Budget for External Action was implemented by NGO's. The value of contracts signed with all non-state actors in external actions has been estimated at 2.2 billion euro in 2003

[10] Commissioner Kallas, in his March speech in Nottingham on transparency mentions a figure of 2 billion a year for NGOs

sector and another third to civil society organisations. In Spain, for example, most of the 353 partnerships themselves are non-profit organisations.

The final evaluation of the Leader II initiative[11] showed that these partnerships had been highly successful in levering in additional private sector investment, more innovation and the voluntary commitment of civil society organisations. Although there is considerable variation across countries in the ways in which the partnerships have been set up, *the best Leader partnerships can serve as a model of civil society involvement across the EU.*

On the other hand, the actions carried out by the Leader Initiative tend to focus on the economic regeneration of rural areas and certain small-scale infrastructure investments. This means that a high proportion of the beneficiaries are private companies and local authorities rather than NGOs

Under the new Rural Development Regulation, the Commission has proposed that a specific proportion of the funds to be spent be earmarked for Leader and that the Leader approach be extended to other axes funded under the regulation. The impact of this crucial debate for civil society organisations in rural areas will depend upon:

- the final amount earmarked for Leader.
- the total budget for rural development agreed in the Financial Perspectives.
- and the extent to which Member States extend the principles of the Leader approach (e.g. the partnership principle) to other areas of rural development

The Equal Community Initiative.

The 1,000 partnerships which manage the Equal Community Initiative are also evaluated on the basis of whether they include *all the relevant stakeholders* required to carry out a particular set of actions. Nevertheless, the partnership principle is weaker than in Leader, in the sense that there is *no requirement* to go beyond to the public sector to involve civil society or anyone else.

However, over a third of the EQUAL partnerships (35%)[12] were occupied “non profit private organisations, including NGO’s). By extrapolation this would mean that EQUAL allowed NGOs to manage programmes to the value of 1.025 meuros over the entire period (36% of 2,847) or around 146 meuro pa (7 year period).

In addition, the more “social” focus of EQUAL on innovative methods of combating discrimination in the labour market has meant that more of the actions have been carried out by civil society organisations than in Leader

But, the European Commission has *not* proposed to continue EQUAL during the next funding period. This is a major blow to civil society organisations. The overall impact will now depend entirely on whether Member States compensate for the loss of EQUAL in the way that they use the Social Fund and the way the new “Progress” programme is given shape.

The Urban and Interreg Community Initiatives

The projects in the last phase of Urban are practically all managed by local authorities with less NGO involvement than in the other two initiatives. Similarly, most of the Interreg projects involve partnerships between regional and local authorities in different Member States[13].

Interreg and Urban also involve a higher proportion of activities directed at investments in physical infrastructure. As a result the participation of civil society organisations in the actions is also lower than in the other initiatives. The current proposal for creating European Groupings of Cross Border Cooperation (EGCC) also refers exclusively to regional and local public authorities

[11] Expost Evaluation of the Community Initiative Leader II. Final Report. DG Agriculture 2004
[12] EQUALCommon Data Base Statistics
[13] A Study of the Mid-Term Evaluations of the Interreg Programme. Interact. University of Strathclyde. 2005

Interreg is the only Community Initiative that the Commission proposes to retain as such during the next found of funding. Similarly, there are proposals to earmark a certain proportion of ERDF funds for "participative, integrated strategies to tackle high concentrations of economic, environmental and social problems affecting urban agglomerations[14]"

It would, therefore, be very useful to open up the Interreg partnerships and actions to civil society organisations, especially considering the positive results observed as a result of their involvement in the Equal and Leader Initiatives.

The Structural Funds

By far the lion's share of EU funding both in general terms and specifically for NGO's is delivered by the three Structural Funds (the European Social Fund, the European Regional Development Fund and the Guidance section of the European Agricultural Fund). As has been mentioned the Cohesion Fund is spent mainly on large infrastructure projects and has less direct impact on the work of NGOs. Together these funds amount to a massive 49,000 million euros in the 2005 budget

These funds are meant to be administered *in partnership* between the Commission, the 25 Member States and regional authorities.

There are no reliable statistics for the proportion of the structural funds where civil society is actively involved. However, it is possible to get an impression of what the maximum might be by analysing the situation in countries such as England and Wales with highly developed NGO sectors and a long tradition of civil society involvement in public funding.

For example, the Welsh Council for Voluntary Action estimates that there are around 30,000 voluntary organisations in Wales. Through their umbrella organisations, such as WCVA (see below) voluntary organisations were present at all stages of the planning, implementation and monitoring of the structural funds in Wales and are estimated to have received around 10% of the 1,9 billion spent.

Rules of financial management and their interpretation

*Finally***,** the last factor affecting the involvement of NGOs in EU funding *is the way in which the finance is managed.* This is the central topic of this report and will be dealt with in depth in the following sections.

Here we simply want to make two vital points:

> The margin for manoeuvre for improving financial management is clearly affected by the type of programme mentioned above. In particular, the Structural Funds are managed in partnership between the Commission the Member States and Regional authorities. They have a special chapter in the FR and IR *and must follow the rules established in the Structural Funds regulations.* Have the same hierarchy in legislation, but where the Structural Funds regulation is more specific, its rules go above the Financial Regulation. In fact, because of the partnership principle the Structural Fund have a relatively large margin for manoeuvre for being friendly to NGOs
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> The Commission's direct budget lines are also governed by the Financial Regulation and the corresponding Implementing Rules, as well as rules laid down in the respective legal bases. We will show that there is scope for improvement of the Financial Regulation and its implementing rules to make them less bureaucratic and cumbersome while at the same time respecting the principles of sound financial management and transparency.

[14] Proposal for a Regulation of the European Parliament and of the Council on the European Regional Development Fund. COM (2004) 495 final

However, we will also show that there is a huge variation in the way in which the regulations and rules are interpreted – not only between Member States and the main Commission departments but even between different units within the same department. Some of these differences are justified by the nature of the tasks and organisations concerned. But, there is also considerable scope for sharing good practice in the finance of civil society organisations - even without changes in the FR and IR

In the next chapter we turn to the central financial problems that NGOs have identified as affecting their effectiveness trying to distinguish which are due to the FR and IR themselves and which are due to the way in which they are being interpreted.

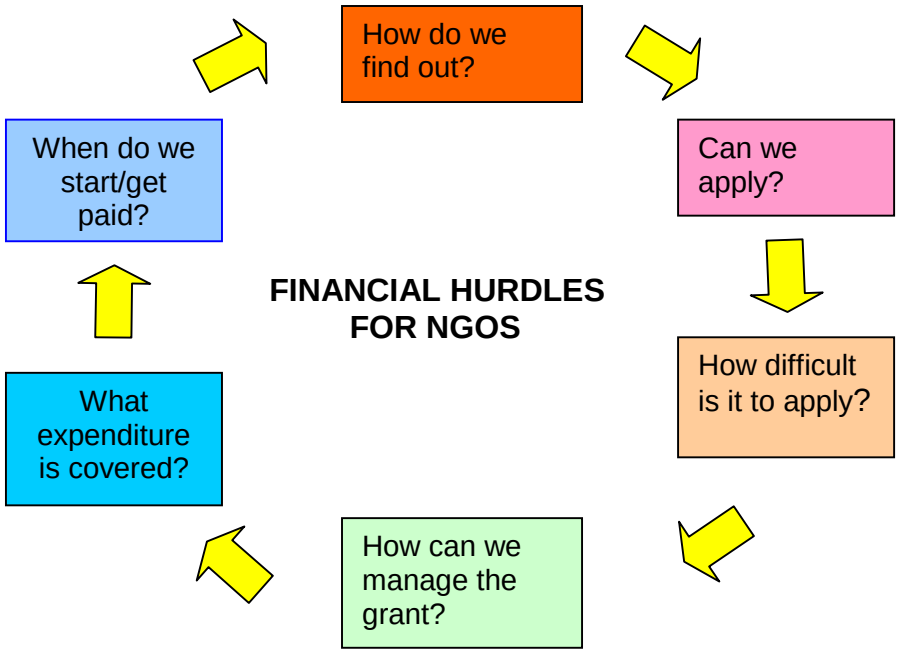
3. THE MAIN FINANCIAL PROBLEMS BETWEEN THE EUROPEAN COMMISSION AND CIVIL SOCIETY

In this central section we intend to analyse the main problems faced by civil society receiving *project* funding (as opposed to core or operating funding). These problems vary in intensity in different sectors and countries and undoubtedly have a far bigger impact on small local NGOs than on large international organisations. However, in general, we will focus on the problems that our interviews suggest are *common* to most sectors and types of NGO even though some may be better equipped to overcome them.

Our aim is to structure the analysis in a way that helps both civil society organisations and members of the European Commission to identify and implement certain improvements. In order to do this we have:

In the first place, rather than simply listing main the financial problems, or ranking them in some sort of order of intensity, we have tried place each problem within the sequence or system of steps faced by NGOs when obtaining and managing funds from the European Commission. This is important because we will see that minor problems at one point can snowball into larger problems later on.

While it is always possible to classify the problems in different ways we have tried to look at the problems *from the point of view civil society organisations themselves rather than from the management within the Commission*. So the steps relate to finding out, applying managing and justifying a grant. We tested this approach on the NGOs interviewed in the course of the study and nearly all found it helpful.



Secondly, despite the huge complexity and diversity that exists in the way in which these steps are dealt with in different contexts, there has clearly been an attempt to make the entire process more coherent and rigorous by applying a series of *common principles*. In general, since the financial scandals which led to the resignation of the European Commission in the year 2,000 the aim has been to tighten up the principles of "sound financial management" and to reduce the scope for favouritism, nepotism and plain simple corruption.

These are aims which nobody, least alone civil society organisations, can disagree with. Moreover, it is important to understand that the European Commission has been and is under enormous pressure from the Member States, the European Parliament and the press to justify every step and cent spent. They are backed up by an imposing array of bodies that scrutinise every action the Commission takes (Internal Auditors, the Court of Auditors, OLAF, the European Parliament, the Ombudsman).

The Commission White Paper on European Governance[15] argues that the Commission faces a difficult dilemma. On the one hand, it is being pressured to tighten control. But on the, other hand, people are voting with their feet and "losing trust in a poorly understood and complex system to deliver the policies that they want. The Union is often seen as remote and at the same time as too intrusive." As a result the White Paper proposes "opening up policy to get more people and organisations involved in shaping and delivering EU policies". Civil society organisation is clearly key players in this drive.

EU funding programmes are one of the main ways in which the European Commission comes into contact with local events and local actors. But the manner in which the principles of sound financial management are being interpreted and applied, push them away.

It is important to try to understand the situation both from the point of view of the Commission itself and the organisations that it funds. In general, both suffer from the current situation. But the financial management strategy followed by the Commission may mean that it shoots itself in the foot.

"You must account for every penny and action"

"You must get more people interested and involved in Europe"

There are a series of principles, that run through the way in which the financial relationship and NGOs is being played out. Many of these, principles cannot be tied down in black and white to a specific requirement in the regulations. They are a question of interpretation. But the tone in which many aspects of the regulation is written leads to the principles below becoming the dominant way of thinking within the Commission

The report "Striking a Balance" provides an excellent analysis of how some of these principles undermine the efficiency of the Commission. Here, we aim to complement this analysis by drawing out how they *harm both the efficiency and effective of the NGOS themselves.* Some of the main principles applied to the FR that have been identified as affecting NGOs are as follows:

[15] European Governance. A White Paper Brussels 25.7.2001. COM (2001) 428 final.

3.2 PRINCIPLES AFFECTING THE COMMISSIONS FUNDING OF CIVIL SOCIETY

Too much weight is given to the principle of economy.

According to the Financial Regulation, "sound financial management" is made up of three components: economy, efficiency and effectiveness[16]. No one can disagree with any of these. However, the report "Striking a Balance" shows clearly how these principles pull in different directions For example, economy can be achieved by heavier procedures which ensure compliance. But these procedures can cost so much that they reduce efficiency.

This precisely what is happening in the European Commission. Although, there are no comparable statistics for the "efficiency" of EU grant giving departments, a small analysis of two departments carried out for the report above suggested that the administrative costs of managing grants were in the region of 16%. A cost-benefit analysis made of three proposed EU executive agencies suggest figures of around 19%.

In comparison, six national grant schemes recognised as "good practice" yielded figures of around 3%. Some of the best performing EU schemes have rates around 4.6% (Echo) and 6.5% (RTD).

The rapporteur to the European Parliament concludes that "as a result of the Financial Regulation and its subordinate provisions departments have at least two to three times more administrative work. Departments with small administrative budgets are assuming a fivefold increase in staffing needed for internal administrative processes"[17].

As has been said our concern here is less on the impact on the efficiency of the Commission *and more on that of civil society organisations themselves*. Once again, there are no reliable general statistics. However, examples of particular calls suggest that the costs to NGOs of successful and unsuccessful proposals can be in the region of 12-33% of the total value of the grant[18]. Other estimates are even higher. It is not surprising that NGOs argue that these costs are becoming unsustainable.

Economy is interpreted almost exclusively as strict procedural compliance requiring exhaustive *documentary proof*.

In the trade-off between value for money and providing the stipulated quality and quantity of proof at the specified time it seems, that the latter is always preferred. The wording of the regulations leads to the view that extremely comprehensive *documentary* evidence is required to prove procedural compliance. The Implementing Rules[19] require authorising officers to

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[16] FR. 27 The principle of *economy* requires that the resources used by the institution for the pursuit of its activities shall be made available in due time, in appropriate quantity and quality and at the best price…. The principle of *efficiency* is concerned with the best relationship between resources employed and results achieved. …The principles of *effectiveness* in concerned with attaining the specific objectives to achieve the intended results

[17] Working Document 2 on the Reform of the Financial Regulation. European Parliament. Committee on Budgets and Committee on Budgetary Control. 7.4.2005

[18] Strategic evaluation of the Management Methods of Programmes. Revised Final Report for DG Budget. Technopolis. 2004

[19] Article 99b of the Implementing Rules

endorse payment requests as “certified correct”. This is defined as meaning “that the action or work programme carried out is *in all respects* in compliance with the grant agreement”.

Although other parts of the Implementing Rules allow that “verifications may be organised on a sample basis using risk analysis” [20], the requirement to “certify correctness” creates major pressure to be as exhaustive as possible. In fact, the wording goes beyond the assurances provided by most auditors. In theory it could involve checking hundreds and thousands of invoices.

Some major grant giving agencies place a far greater reliance on personal judgements based upon direct contact, experience and accumulated trust. However, the events leading to the fall of the Santer Commission has increased concerns about potential nepotism within the Commission, and has led to interpretations which discourage direct contact with beneficiaries[21]

Spreading the risk of non-compliance and passing it down the line.

One of the most problematic clauses in the Financial Regulation states that the “*authorising officer shall be liable to payment of compensation” not only because of an damage suffered by the Commission as a result of serious misconduct but also if he/she “signs a payment order without complying with this Financial Regulation and its implementing rules”*[22]. Apparently, there has only been one case[23]. There is of course no incentive for improving efficiency or effectiveness. The uncertainty that this article creates has at least two pernicious consequences.

The first is that Commission Officers try to spread the risk by multiplying enormously the number of steps and signatures required to make a payment. In theory, grant payment approvals require a minimum of 6 signatures but some of the departments interviewed in Striking a Balance, reported procedures that involved between 7 and 15 signatures. Similarly, the rapporteurs to the Committees on Budgets and Budgetary control report that “even for low value and medium value contracts, procedures can last months and files can be 30-40 pages and and at least 20 signatures are needed”. This is one of the reasons behind the delays cited by NGOs as being their most serious financial problems with the Commission

The second consequence is to try to shift all the risk of a decision down the line onto the final beneficiary. This leads to the series of harmful practices for NGOs such as: increased demands for guarantees and audits, excessive demands for reporting and accounting, “stopping the clock” when there has been no time to check if all the documentation has been received and is correct, making contracts more rigid, ending contingency reserves and so on. All this undermines the principle of mutual trust that relationships between the public sector and civil society ultimately have to be based upon; not fear.

[20] Article 47.4 of the Implementing Rules
[21] The standard text in Calls for Proposals within external actions is ”Applicants are also excluded from participation in calls for proposals or the award of grants if, at the time of the call for proposals…. They have attempted to obtain confidential information or influence the contracting authority during the evaluation process of current or previous calls for tender”
[22] Article 66 Financial Regulations.
[23] Striking a Balance. As above.

I am prepared to give you an "advance"
(which will arrive a long time after you start).
Of course I need a guarantee.

But what guarantee do I have that
you will pay me for all the work I have done???

One size fits all.

A corollary of the emphasis on procedural compliance is that everybody should be subject to the same procedure regardless of their particular characteristics or circumstances. This is currently taken to extremes where the costs of selecting, checking, controlling and recovering moneys can outweigh the amounts originally spent.

The rapporteurs for the Parliamentary Committee on Budgets and Budgetary control provide a particularly graphic example when " an EU office in an EU capital city organised breakfast for the press corps there, the bread, cakes, pastry and sandwiches had to be brought in from the delicatessen section of a large department store because no high street baker was prepared to do the paper work and disclose what its annual turnover was to obtain the order."[24]

These excesses create particular problems in the requirement to obtain competitive tenders for very small purchases (procurement rules). All tenders for supplies over 200 euros have to furnish a considerable amount of proof. Where amounts above 1050 euros are involved, a committee with at least 3 members from two different organisational entities is needed to open and assess tenders.

The same logic is applied to small grants to NGOs. Civil society organisations report that the costs and risks of applying outweigh the benefits for grants under certain amounts. Organisations like ECAS firmly recommend NGOs to analyse the costs and benefits before applying.

The one size fits all approach means that all the procedures are seen from the point of view of the implementing organisation rather than the user. This goes against modern "client orientated" private and public sector management. Different types of organisation in very different context are all squeezed into the same mould.

There is a particularly narrow definition of efficiency unrelated to effectiveness.

At the level of the Commission, the debate about efficiency may be about reducing administrative costs for a given throughput of grants. Outputs or results of the level administrative spending do not seem to enter the equation though.

There is also a partial approach to efficiency in relation to the grant aided NGO. Here short term outputs or results specified in the contract are treated very seriously. In fact, a reduction in the

[24] Working Document 2 on the Reform of the Financial Regulation. As above

number of people who were predicted to attend a training course, for example, can easily result in a loss of grant. As a result, there is tremendous pressure to fill the course regardless of whether anyone learns anything.

In this sense, NGO's efficiency is interpreted as a form of two-way procedural compliance. The sole objective becomes to ensure a specified set of measurable outputs for the agreed expenditure. This has led to vast and costly increases in both reporting and accounting requirements.

NGO's complain bitterly that this takes them away from the real object of their work and that the Commission does not seem to be concerned with the impact it has on effectiveness

Calls for proposals from civil society are treated like tenders from private companies.

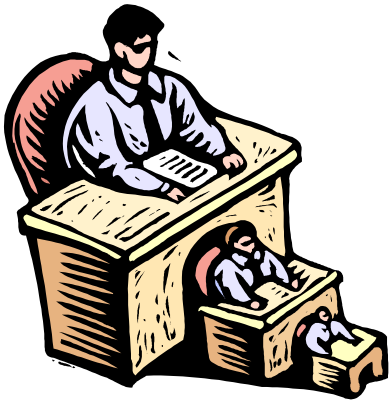
One of the most common criticisms of NGOs is that that, on the one hand, the same procedures are applied to them as to the private sector but that, on the other hand, a series of very restrictive criteria are applied to ensure that they cannot generate any surplus.

Both calls for tender and calls for proposals tend to screen out those applicants that have not met certain legal criteria and/or do not have certain levels of financial or technical capacity. Only afterwards is the content of the proposal examined. But in the case of NGOs this can have the perverse effect of eliminating precisely the smallest, more vulnerable and most innovative projects that the programme is designed to support.

A particularly stark example is the E- Content Programme which is supposed to target SMEs start-ups but which requires the participants to provide three years of accounts. The midterm evaluation showed that more than 80% of SMEs participating had been in existence for over 5 years. So tendering rules were adhered to but the target audience was virtually untouched
.
The "non-profit" rule[25] also makes it difficult to support socially excluded groups from developing countries *and for the EU* to increase capacity to carry out small scale income earning activities to promote sustainable development of the communities involved. All surpluses are meant to be declared and returned and/or deducted from the grant. However, losses are ignored even when they are directly the result of the delays or other decisions of the EU. This can lock NGOs into a spiralling "insolvency trap"

"You must get rid of the money quickly
On exactly what we have agreed"

"You must be innovative



"You cannot save, invest or make any money.
"Any loss will be at your expense"

"Above all you must never depend on me".

[25] Article 109.2 FR "The grant may not have the purpose or effect of producing a profit for the beneficiary".

In fact the basis of a grant relationship is that the funder wishes to support the work of another independent organisation, whose skills it acknowledges, whose work is in line with its aims. In a grant relationship, the means to reach a goal are left to the discretion of the grantee. Once again it requires trust on the part of the funder.

We now turn to look at how the principles above affect the hurdles faced by NGOs and how these in turn effect their efficiency and effectiveness. The table overleaf provides an overview of the main problems mentioned by NGOs

CHALLENGES FOR CIVIL SOCIETY	FINANCIAL HURDLES
1. How do we find out?	Multiplicity of EU funding sources. Diversity of procedures. Insufficient technical assistance and outreach Match funding sources
2. Can we apply?	Excessive minimum grant size Match funding requirements, %-rule. The need for own funds to pre-finance projects. Exclusion on the basis of legal, financial and technical capacity. Bank guarantees
3. How difficult is it to apply?	Complexity of application procedures. Weight given to administrative and formal criteria. Time/cost of handling information v size of grant Cost and risk of failure Over prescriptive criteria
4. Can we manage the grant?	Audit requirements Heavy accounting and reporting systems Rigidity of budget heads. Complexity/rigidity of the contract
5. What expenditure is covered?	Payments and acceptance of interim reports does not imply eligibility Currency changes (UK.), VAT, Overheads, depreciation, margins, Interest payments (due to delays) Contributions in kind, Rules of origin
6. When do we start/get paid?	Delays programme approval, calls for proposals and selection ….. Delays in signing contracts Delays in prepayments Delays in final instalments

In the following pages we analyse each section in turn.

3.3. HOW DO WE FIND OUT? THE CHALLENGE OF OBTAINING THE RIGHT INFORMATION.

How do we find out?

Multiplicity of EU funding sources.
Diversity of procedures.
Insufficient technical assistance and outreach…
Lack of transparency in match funding sources

Multiplicity of EU funding sources.

Given that the European Commission manages well over one hundred direct budget lines affecting NGOs, the Community Initiatives with over 3,000 partnerships and is jointly responsible for the Structural Funds with their myriads of different arrangements in the 25 Member States, it is quite astonishing that NGOs are actually able to find out about the EU grants that are relevant for them.

Due to the complexity, there are a large number of specialist organisations, national and regional offices and guides which offer extremely comprehensive guides to EU funding[26]. One of these offices estimated that it takes at least twenty minutes per day to scan all the different web sites to ensure that nothing has been missed.

Nevertheless, most organisations interviewed argued that finding out about the basic facts (deadlines, conditions for entry, etc.) about calls for tender was *not* the main obstacle. There were two other more important factors.

Diversity of procedures.

In the first place, NGO's argue that EU procedures are both complex and also interpreted in different ways, not only between countries and general directorates, but also between units and even individual officers. Everybody hides behind the "regulations" but the complexity of these means that it is very difficult to know what is a definite requirement and what is a particular opinion.

For example, within the Leader Community Initiative, there are at least three different processes operating in different Member States and regions for selecting projects for trans-national cooperation (open calls for proposals, calls with a particular dead lines, pre-assigned funds in the partnership budget). In addition, the match funding requirements differ considerably between countries and many of the eligibility conditions are interpreted indifferent ways. Given that the managing authorities of all the Member States concerned in a transnational project have to take a decision it is hardly surprising that the transnational budget is vastly under-spent.

Insufficient technical assistance and outreach

This situation is partly a reflection of differences in the conditions in each country. But much is also due to the fact that there is very little attempt to analyse and spread good practice in financial management among the staff responsible for the programme. This is compounded by the tendency, mentioned above, of treating NGOs like private companies. With the latter it is important to ensure that there are impartial procedures that prevent any company gaining an unfair competitive advantage over another.

[26] For example, ECAS's "Guide to European Funding" now in its 10th edition or the EU Funding Directory of the Wales European Centre.

However, in the case of civil society organisations, the aim is *to build the capacity and promote the independence of the weakest members of society.* The logic is the complete reverse of a competitive tender and often involves going out into the community to help with the organisation of civil society. Obviously, this help must also be available to all on an equal basis.

However, in order to avoid the problems of favouritism and nepotism there has been a deliberate retreat from all approaches based upon (close) personal contact, judgement and trust. This partly reflects severe shortages in human resources within the Commission. But it also responds to a fundamental distrust

NGOs argue that there is a major gap in technical assistance, training and outreach for both sides of the grant giving process – the NGOs and the officials authorising and managing the grants. They argue that this technical assistance either does not exist or, where it does is often used solely to fund the government side.

Examples from the New Member States

Most of the New Member States find themselves in the situation of recreating a tradition of civil engagement that was buried during nearly half a century. The fragility of civil society organisations, together with a gradual withdrawal of certain US sources of funding and a large influx of EU funds poses particular challenges for all the actors involved. Four main problems relating to this have been raised by the Civil Society organisations interviewed in the course of this project. For reasons, which speak for themselves, these organisations prefer to remain anonymous.

Many rules are much stricter or are interpreted in a different way than they are foreseen in EU regulations

For example, the Financial Regulation requires projects to maintain records for seven years. However, the Czech Managing Authority for the Social Fund has increased this requirement to 9 years.

There are constant changes and uncertainty in procedures.

For example, the Czech Managing Authority (Ministry of Labour) together with the Intermediate Body (Prague Magistrate) changed the computer application program (BENEFIT) 3 times *during* the call for proposals for projects under the Single Programming Document for Objective 3 (January-February 2004). The form was the only accepted way to present applications.

According to NGO's each time there was a new version of the application form software, the conditions changed. This situation led to an increase in the workload, additional costs and frustration for between 50-80 NGOS. It also discriminated against those NGOs who started to prepare their proposals earliest. Those, who started later on and filled in the last and valid version of the application software, did not need to devote their limited time and resources to rewriting the proposal.

In Poland, organisations applying for the EQUAL Initiative, among others, were subjected to the need to fill in the electronic form on the SIMIK electronic application programme several times over because the electronic application was riddled with software bugs. Indeed, the Ministries of Finance and Economy asked applicants to notify them of errors, making them guinea-pig users. In addition, changes in fundamental conditions regarding calls for proposal are not unknown (such as last minute changes in application deadlines during the call for LEADER).

An underlying attitude that Civil Society is not to be trusted.

Given the large increase in public transfers to the NMS and the relative youth of both public and civil society organisations there is clearly a legitimate concern to reinforce sound financial management. However, rather than trying to build up the conditions for mutual trust between all the parties involved, NGOs argue that EU procedures often seem to be based upon the premise that beneficiaries are inherently untrustworthy. As a result every step must be rigidly documented and controlled. In addition to justifying each step, NGOs are often required to obtain consent from the authorities for exactly how they carry them out (for example, the way publicity is used). This entails filling in endless reports and questionnaires about the formal results of the project while leaving very little room for adapting the project to changing conditions. It also creates the impression that the EU Social Fund, for example, is simply concerned with formal or paper output rather than sharing a commitment to having a real impact on society

***Technical Assistance is often used to supplement ministerial budgets and/or is subcontracted out to large companies and consultancies rather than helping to build capacity on the ground*.**

For example, a prominent civil society organisation from one new Member State organised a nation-wide conference for social services providers in 2004. The conference was attended by around 300 delegates from all over the country, mainly representatives from local government and NGOs, as well as foreign visitors. As the conference dealt with the financing of social services from EU funds (mainly the ESF), the organisers requested to be able to use the promotional material produced with ESF technical assistance funds. This request was refused on the grounds that the materials were “exclusively for the use of implementing organisations (only the state administration) and for their conferences and seminars”.

A common attitude to the use of technical assistance for building capacity within civil society is summed up in a quote from the chairman of the Czech ESF funded Operational program Human Resources Development monitoring committee, who is reported to have said: “I do not see NGOs as benefiting from technical assistance for information purposes. It is your task and activity anyway to inform about the ESF and EU funding. You have been doing it for free till now, so what is your problem now?”

Lack of transparency in match funding sources.

Another key problem is seen to be the fact that the procedures for obtaining the necessary co-financing for accessing EU grants are often far less transparent than the EU. This can lead to the situation, where the conditions and procedures for obtaining a relatively small amount of co-financing (between 20-50%) actually determine who has any chance of obtaining a EU grant. A small rather opaque co-financing “tail” gets to wag a huge formalised EU “dog”.

According to the *Welsh Council of Voluntary Action* “Local or Regional government is often a lottery with funding reliant on local contact or knowledge” “Funders often asking for different audit and monitoring procedures for their funds. In addition to this organisations have to go through different application procedures, different approval dates and different audit procedures” Funding advice for the sector is also limited as many of the European officers in local authorities are put under pressure by local politicians and officers to ensure that their projects are prioritised this makes it difficult for them to provide independent advice.”

3.4 CAN WE APPLY? THE CHALLENGE OF MEETING THE ENTRY REQUIREMENTS.

Can we apply?

Excessive minimum grant size
Match funding requirements
need for own funds to pre-finance projects
Exclusion on the basis of legal, financial and technical capacity
Bank guarantees

Once an organisation has managed to obtain the basic information about a call for proposals, the next step is to consider whether it meets the basic conditions for making an application. Here many, civil society organisations immediately find that they are excluded.

Excessive minimum grant size

Over the last ten years, the difficulty faced by the European Commission in directly handling large numbers of small grants has meant that the minimum levels of grant have increased in many areas.

Similarly, the International Federation Leagues of Human Rights argues that the minimum grant size of 300,000 euros applied in the European Initiative for Democracy and Human Rights (EIDHR budget lines 19.04.02-05) excludes many NGOs especially in developing countries which in theory are eligible and, therefore, have access but in practice do not have the capacity expertise nor skill to apply. On the other hand, they also argue that the *maximum* grant of 10,000 euros that can be paid under the far more flexible micro project schemes managed by certain national EU Delegations *is too low*[27].

The following case study illustrates how highly effective small scale actions are being phased out:

NABU, (Naturschutzbund Deutschland - the German Society for Nature Protection) is a large German NGO, founded over a hundred years ago, that works in the field of nature protection, at practical, scientific and political levels. It has 250.000 members in throughout the country

Different regional offices of NABU have been responsible for important and highly successful communication campaigns about various aspects of EU environmental policy. For example, between March 1999 and April 2000, the Stuttgart branch coordinated a programme on the "natural heritage of crop diversity" financed by DG Environment with an overall budget of approximately 337,000 euros[1]. This involved a total of 69 events in six countries which attracted over 100,000 participants

[27] Audition devant la Commission des Budgets du Parlement européen. 16 Juin 2003.

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Between April 2001 and February 2002, the Bonn branch of NABU organised another trans-national programme of 24 seminars in 11 European Countries focussing on organic, farming, plant breeding and genetic resources[1]. The programme was financed by DG Agri under the Information Measures about the CAP with a total budget of 273,000 euros. 15 separate partners were involved. 1300 people participated in the events and an estimated 500.000 were reached by brochures and press releases.

NABU argues that both programmes were extremely successful in reaching large numbers of ordinary citizens as well as farmers, gardeners and experts. They add that "the people from the commission, involved with the programme *Information measures on the CAP* are friendly, helpful and they answer quickly". The project provided a taste of a European identity, "the feeling of being a piece in the puzzle and not a piece on its own". Yet, paradoxically, here is where the problems begin.

Firstly, it appears that the difficulties of controlling such large numbers of small events has lead the Commission to put ceilings on the numbers of events in each programme. For example, now DG Agri will not cover more than 5 events per programme[1]. Larger, more centralised events cannot achieve the same levels of personal contact and do not reach so many ordinary people in their own local areas.

But secondly, an important aim of both information programmes was to inform and prepare for a new planned programme on Genetic Resources[1]. The programme partners, many foundations and civil society organisation from all over Europe spent a lot of time and money both providing information and developing projects for this purpose. But the planned programme has been postponed from year to year since 1999 and may never take place

Match funding requirements

The second set of hurdles**,** directly related to the size of grant, are the match funding requirements, which are always set in proportional terms. Many NGOs simply have to bow out at this stage being completely incapable of finding half or more of the project costs from another source.

Once again according to the *Welsh Council of Voluntary Action* "Many groups rely on match funding from other sources that is very much project delivery orientated which often prevents the recruitment of the necessary resources and we have also had case where the funding authority have questioned why these additional staff were needed "

"Often match funding itself is time bound and very often projects can fail because of the time between submission and approval is to long that the match funding is either spent and therefore ineligible or has been withdrawn by the funder."

"In some case in the UK where the match funding has been provided by using the budgets of devolved government bodies such as the development agencies or skills council over 30% of NGOs have been excluded from accessing European funding."

Even when match-funding rates are reduced to around 20%, as in the case of NGOs, operating in developing countries, the "**percentage rule"** creates problems, as the following example illustrates:

Peace Child International[1]

"We had developed a much-admired programme of education for sustainable development which we had field-tested in 40 countries with your support (DG Environment) and the support of 12 other governments and UN agencies. The UN CSD encouraged to go to scale with the programme and seek 750,000 dollars to implement the project…. Following the perceived failure of Rio + 5, eleven of the 13 funders decided that they had other priorities and turned down our funding request. Only your DG and the Dutch Government continued their support"

"In the end by scrimping and saving, taking salary cuts, stretching every cent as much as we could we managed to complete 30% of the project goals even though we raised only 13% of the project budget. We thought that the EU, like the Dutch Government, would be delighted and forward us the balance of the 20% of the grant that remained unpaid. Instead of which, last April years after the project was completed, your accounts division slammed us for a bill of E 13,414.95."

"There is no way that we can pay this. We have no core funding. All our members are young people mostly in the development world who have no means to pay membership dues. We rely 100% on project funding, every cent of which has to go to the project funded. But chiefly we rely on the passion and energy we are able to generate in young people….We had hope that your DG shared that passion….."

The need to for own funds to (pre-) finance projects

With hurdles to receiving pre-financing or advances , one of the key requirements for implementing projects whose costs should normally be partially refunded by the EU is own resources. The vast majority of civil society organisations do not have such resources, at least not to the amount required by EU co-financed projects. These amounts are considerable, given the preference of the EU for large projects and the delays in payment outlined elsewhere in the report. This discriminates against small organisations, without regard to their expertise, professional management or relevance to the action. It also discriminates against NGOs from the new Member States, where the relative youth of most NGOs and the low levels of private philanthropy and due-paying members leave many organisations constantly teetering on the edge of financial collapse.

Exclusion on the basis of legal, financial and technical capacity.

Another set of problems occurs because, as a general principle, the European Commission operates the same *kind of three-step procedure for awarding grants as it does for awarding tenders to private companies.*

First of all, it applies a set of *exclusion criteria* related to being up to date with taxes and national insurance and not having been found guilty of any major misdemeanour.

Secondly, a set of *selection criteria* is used to further screen out certain contenders. The selection criteria are designed to test the financial and technical capacity of the project promoters to carry out the project. Civil society organisations are required to demonstrate that their turnover and financial resources are sufficient to manage the grant, normally, by presenting at least three years audited accounts. The turnover of an organisation is often expected to be several times the size of the grant.

Similarly, evidence is required of the fact that the NGO already has the technical staff, track record (curriculum) and equipment for handling the project.

In the final stage of the selection process, the Commission applies a set of specifically designed *award criteria* to those organisations that remain.

NGOs complain bitterly that the *exclusion* and *selection* criteria are applied in a very mechanistic and bureaucratic manner simply to cut down the number of applications to a more manageable size. It is particularly difficult for Human Rights organisations in certain countries to obtain this evidence.

Some countries deny human rights NGOs a legal status, thus making it impossible for them to apply for an EU grant. For example, the "Conseil National pour les Libertés en Tunisie" (CNLT) is an association founded by 40 Tunisian intellectuals in 1998. It has 8 regional antenna which produce material on human rights for a Web site and an annual report. It is a recognised partner of prestigious international organisations like Human Rights Watch, Amnesty Inter national and so on. However, since 1998 the Tunisian government has refused to recognise their application for a legal status.

In certain countries, human rights NG0s can be put in real risk if they are officially awarded an EU grant. The most famous example is that of Professor Ibrahim Saad Eddine, director of the American University in Cairo who was sentenced to 7 years hard labour for having received a grant from the EIDHR for promoting free elections without prior government approval. Fortunately, after considerable international pressure he was freed in December 2002 and acquitted the year after. But, the risk still looms large in many countries

For the reasons above and the fact that their members may face discrimination in employment, many human rights organisations are unable to provide any co-financing other than contributions in kind

A very high proportion of project applications tend to be eliminated at the exclusion and selection stages. There are numerous examples of good, very time-consuming project proposals being turned down for minor errors in the paper work. More fundamentally, NGO's argue that, once again this procedure may be adequate if one is trying to select the best private contractor to build a bridge. But it has several perverse effects for non-profit organisations. In particular,

It discriminates against projects to build the capacity of the weaker organisations that, themselves, often represent some of the more excluded members of society. It favours the larger, richer, more established NGOs.
The principle that one has already done something similar over a considerable period reduces the scope for the emergence of innovative practices and new organisations. Yet innovation is precisely one of the strengths of small, flexible civil society organisations and is also a declared objective of the European Commission
The no-profit rule can exclude projects designed to build up the income generating capacity of excluded groups in the both developing and developed countries (for example through micro finance initiatives which should grow financially to be sustainable).
It gives the impression that content of the project and its quality is in fact the lowest priority for the Commission.

The European Council of Young Farmers (CEJA – Conseil Europeen des Jeunes Agriculteurs) is an international NGO which brings together 25 national organisations serving the interests of young farmers across all EU Member States. It was founded in Rome nearly 50 years ago and now represents around one million young farmers. CEJA is the only voice of young farmers officially consulted by the European Commission for work or matters concerning young farmers, and takes part in no less than 24 Agricultural Advisory Committees

By any calculation, young farmers are one of the most endangered species in Europe. Yet the future of as much as 90% of the territory of the EU will depend heavily upon whether they are able to continue living in and contributing to their rural communities. The vital economic, social and environmental role of young farmers is recognised across the European Commission and, as a result, CEJA is active across a range of programmes funded by different EU directorates.

CEJA argue that the EU uses financial and administrative criteria to screen out good projects before they have a chance to prove their worth. Civil society organisations tend to be good on ideas, innovation and commitment. However, they *may* be weaker in terms of turnover, assets and (depending on the organisation) a technical track record. However, the Commission tends to treat NGO's like the private sector by putting a series of financial and technical criteria first (the "exclusion" and "selection" criteria). It is only when NGO's have passed all these hurdles that the things they are really good at are examined (the award criteria). CEJA argues that this process should be turned on its head by looking at content first and then seeing how young farmers initiatives can *be helped* to meet the necessary financial and technical standards

Bank guarantees.

Finally, one of the main hurdles mentioned by most sectors of NGOs we interviewed was reserved for the growing tendency for the Commission to require *bank guarantees* before providing a grant.

It is important to note that the Financial Regulation *does not* actually require authorising European Commission officers to insist on a guarantee. It simply says that they "*may* require the beneficiary to lodge a guarantee in order to limit the financial risks connected with the payment of pre-financing". However, the Implementing Rules *do* make a specific requirement for guarantees for NGOs "in the field of external action" with "prefinancing exceeding EUR 1.000.000 or representing over 90% of the total grant".

The Concord Working Group on the Financial Regulation provides the following example of what this can mean for a large development NGO[28]

EuronAid has major contracts with the EU for the distribution of food aid worth over 50 million euros. A strict compliance with the Financial Regulation would mean that EuronAid would require a financial guarantee equivalent to the first prefinancing on each of its contract – based on practice until 2002. This would mean a guarantee of 30 million euros only for the Global contract signed in July 2003.

EuronAid like most NGOs cannot offer the collateral to obtain this kind of guarantee and could only raise 6.5 million euros. As a result their first advance was reduced from 30 to 20 million euros which still left the Commission with a theoretical "risk of 13.5 million. No consideration is given to 23 years of cooperation with the Commission. As they are unable to increase the guarantee they have asked that the sum serve for all contracts signed from 2003 onwards. *This reduces the number of grants that the NGO can run in parallel.*

These enormous bank guarantees not only restrict the number of contracts that an NG*O* can carry out but they also impose additional non-recoverable costs. For example, a Danish NGO which was the recipient of a 5 million grant from the EU for a HIV/AIDs prevention project in Tanzania and Zambia was required to take out a guarantee for 4.5 million euro. Initially, the bank asked for 1,5% per year which represented a hefty 67,500 euros pa. Only after lengthy negotiations did the NGO manage to reduce the amount to 0,75% or 33,750 which is still a considerable additional cost for a charitable organisation

The reality is that bank guarantees are a particularly poor instrument for reducing the Commission's risk. If the Commissions doubts are founded and there is a significant risk then the bank is not likely to provide the guarantee either. In many cases, the only security that the NGO can provide is the contract with the Commission but given the Commissions tendency to pass the risks on down the line – banks often rightly regard the contract with a certain amount of suspicion. In some countries such as Poland there are significant barriers at the level of the banking regulations as the banks find there is no basis for assessing the risk. Financial institutions have not been consulted on this issue.

Moreover, the guarantee freezes up significant amounts of NGOs reserves thereby increasing the risk of cash flow problems due to the Commissions delays in payments. So paradoxically, the guarantee can exacerbate the problems it is meant to solve.

In some cases, like e.g. the EQUAL programme in Slovakia, national authorities have been prepared to assume the risk instead of the bank. Potential beneficiaries for the same Community Initiative in Poland however were required faced the near impossible task of getting a bank guarantee..

3.5 HOW DIFFICULT IS IT TO APPLY? THE CHALLENGE OF MAKING THE APPLICATION.

How difficult is it to apply?

Complexity of application procedures.
Weight given to administrative and formal criteria.
Time/cost of handling information v size of grant
Cost and risk of failure
Over prescriptive criteria

Once a civil society organisation has established that it can actually meet the criteria for a call for proposal it is time to consider the difficulty of preparing and presenting the application. This is where the principle of relying almost exclusively on recording the tiniest detail rather than allowing some scope for personal contact and judgement often creates genuinely Byzantine procedures. The minimum information required is specified in the Financial Regulation. However, this is often supplemented by further requests in the individual calls for tender. Civil society organisations are virtually unanimous in their condemnation of unnecessarily onerous and bureaucratic application procedures. Their main points are as follows:

The complexity of application procedures

Firstly, the application forms and background documents can be immensely complex. A high proportion of forms run from 30 to 70 pages. For example, in the PEACE II programme in Ireland. "NGOs were required to fill in two forms a generic form and a measure specific form. In addition applicants were asked to read the operational programme, programme complement and promoters documentation estimated at 540 pages. If they also read the 407 page structural fund operating manual this would accumulate to 947 pages"[29] It was estimated that just filling in the forms took 56 staff hours.

Similarly, in Wales if an organisation is to consider submitting an application to the structural funds "this requires reading in excess of 1,000 pages before attempting to fill out a proforma application."[30]

Other estimates suggest that writing up a call for proposals, producing the budget in a special format, obtaining letters of commitments from co-funders and meeting all the formal requirements such as declarations from banks and auditors takes an average of one months work[31].

The examples provided in section 1 on the Czech Republic and Poland illustrate how attempts to digitalise the application form have also caused problems due to difficulties in saving the form until it was completed, the inability to change sections until the very end, crashes in the system resulting in losing all information, changes in the form after the call for tender and so on.

The weight given to technical and administrative criteria.

Secondly, as mentioned in the last section, NGOs have made many complaints about extremely time-consuming applications being rejected out of hand for minor technical and administrative errors. In many cases there are no rights of appeal.

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[29] Review of the Peace II Programme. Brian Harvey. 2003.
[30] Interview WCVA.
[31] The Financial Relationship between NGOs and the European Commission. Andrew Crook. ECAS. 2004.

For example, the time consuming paperwork required to meet the *exclusion criteria usually have to be collected each time a new project application is made*

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Finally, the order in which the exclusion, selection and award criteria are applied means that good projects may be excluded because of a technical slip up.

For example, a rural development NGO called Ecobreton was rejected twice for calls for proposals by DG Agri purely for small mistakes in the project annexes. United for Cultural Action was also rejected out of hand in a call for proposals for DG Employment because of a *misunderstanding* over the figures provided for the percentage of cofinancing to be provided.[32]

The cost and risk of failure.

Thirdly, many EU budget lines are massively oversubscribed. On its own this suggests that there is real interest and need for the programmes. However, when this is taken together with the time and cost of making the application, the risk of failure and the size and duration of the grant – many NGOs find that, in practice, it is not worthwhile entering a call for tender.

The following examples show that the total cost of applications to NGOs can vary between 12 and 35% of the value of the grant

According to "Striking the Balance" "one grant application required that each of the 27 individual actions e.g. conference, seminar, exhibitions be separately costed in detail. These projects covered 4 countries over 3 years. Three partners were involved. The application took at least 3 person months giving a total cost of nearly 20,000 euro. It is understood there were approximately 250 submissions for this programme of which 50 would be awarded grants totalling 20 million. If an average cost per application was 10,000 (half the example given) then the application costs alone are estimated at 2.5 million or 12% of the grant"

"Another programme's fund is 2.4 million. One organisation invested approximately 3 person weeks in its application. This gives a total cost of at least 3,000 euros. There were a total of 269 proposals giving a total cost of 800,000 or 33% of the grant."

Similarly, in the first round of submissions for the Nano, Mat, Pro section of the 6th Framework programme, 400 applications were made; the success rate was 5%. Work on preparing applications cost 80 million euros in total (up to 200,000 euros per application). Economically these costs are out of all proportion to the 230 million euros in assistance available[1] (35%)

Failure rates for grants in some EU programmes can vary between 65% (2 in 3) up to 90% (9 out of 10) [33]. For example, the NGO-cofinancing budget line about one in five of the 1,400 projects received were approved. This means that, on average, one needs to make five applications to be sure of having one project approved. But with an estimated one months time required for each application, this means dedicating one person for at least five months. According to the Financial Regulation *these costs can never be eligible as they take place before the presentation of the proposal.*

It can be seen that this favours large NGOs that can either afford to pay consultants or have their own department dedicated to finding out, preparing and presenting project proposals.

However, even in these cases, NGOs argue that the short duration of many projects (e.g. under a year) and the limited size of the grants can simply make it unviable to make a proposal.

[32] Request for subsidy under Call for Proposals for the provision of support for the coordination of activities of organisations operating at European level and active in fighting discrimination (VP/2000/004)

[33] Strategic evaluation of the Management Methods of Programmes. Op cit

In Wales the WCVA advises “the majority of groups that if they are applying for a project less than 150,000 euros and under 12 months that European funding is not for them because the administrative burden is to great for the value of money. This is a major issue for Wales as there are over 30,000 NGO s in Wales. Over 70% of these organisations are small and have turnovers of less than 300,000 euros there fore European funding is often inappropriate for these groups who do not have the resources to engage with European projects.”

Over prescriptive criteria

Fourthly, the criteria related to content are often said to be too prescriptive. Many applicants say that they have the impression of having to guess a predetermined “right” answer. For example, many of the summary project proposals in the EQUAL data base simply repeat the same politically correct platitudes about partnership, empowerment, the gender approach and so on but it is extremely difficult to understand what the project will actually do on the ground.

It is also said that the priorities expressed in certain calls for tender do not respond to the real needs of particular (priority) groups and areas (for example, by insisting on entry into the labour market). This can reduce the real scope for innovation and result in projects being squeezed artificially into predetermined categories

3.6 CAN WE MANAGE THE GRANT? THE CHALLENGE OF FINANCIAL MANAGEMENT.

Can we manage the grant?

Heavy accounting and reporting systems
Audit requirements
Rigidity of budget heads.
Complexity/rigidity of the contract

As mentioned above, no one can seriously oppose the principle that the public money awarded by the European Commission to civil society organisations should be governed according to the principles of "sound financial management". However, the central point made by NGOs is that one of the principles of sound financial management – that of "economy" is given disproportionate attention over the other two: "efficiency" and "effectiveness.

According to NGO's principle of economy often boils down paring back budgets to a minimum and reducing the margin for spending resources on anything outside what has originally been specified in the contract. Given the enormous delays in project approvals (analysed below) this creates pressure to provide an excessive amount of information coupled with tremendous rigidity and an inability to adapt to circumstances.

Excessive reporting and accounting requirements

The principle of efficiency is also often interpreted in a mechanistic way as simply maximising outputs for a given level of financial inputs. This leads to two distortions: Excessive reporting requirements for *measurable* outputs and very heavy accounting requirements

Turning to the reporting requirements, one project in the PEACE II programme reported the following quarterly demands: a form of several pages for each beneficiary aged over 13 years; group needs analyses (stating benefits, outcomes, results, soft skills methods, activities, processes, recording monitoring and evaluation systems) for each group meeting; attendance lists and reports of every meeting. Co-signed statement of dates and hours attendance from each beneficiary, placement records for each beneficiary, forms for the soft outcomes for each beneficiary.

> One person from the project commented "We accept that there has to be some number-crunching, but this goes too far. Some people have been in despair and have had to call help-lines. This level of reporting really wears you down. You end up with a choice of filling in all the forms and never doing anything else; or doing the real work but defaulting on the form filling requirements"[1]

NGO's from all sectors complain that there is an obsessive concern with short-term outputs rather than the much harder to measure real impact of their work (effectiveness). This results in a mass of web pages, reports, leaflets, meetings and people attending training or receiving advice. However, project workers often feel disappointed that there is far less concern about whether this flurry of activity has actually been useful. After all this is usually what is most important for the public and the civil society organisations serving them.

The heavy requirements for reporting outputs go hand in hand with very onerous *accounting requirements*. It appears that the levels of financial detail required varies considerably between programmes but is always increasing. For example, in one case in a PEACE II project payments to a consultant were refused on the basis that the fees were not broken down on the

front of the invoice on a detailed week-by-week time and content basis even though these had been agreed in advance. The organisation had not been informed of this requirement before hand.

Human Rights organisations can have particular problems in furnishing the information required by the Commission. For example, it can be extremely dangerous if not impossible to obtain official receipts for work carried out. For example, a local printer who produced some material for CNLT was taken away by the police and interrogated in 2000. Under these conditions, NGOs ask who would be prepared to let their venue or provide an official receipt for the cost of a meeting room or other services. For these reasons, highly respected human rights organisations such as the Algerian League for the Defence of Human Rights and the Algerian Association of the Families of Disappeared People are unable to present formal accounts for the previous year

Audit requirements

One of the main criticisms of NGOs in this area relates to excessive *audit requirements*. According to the Financial Regulation **(**FR 56 IR 180**)**, external financial audits are compulsory when prefinancing or interim payments exceed 750,000, final payments exceed 150,000 or where operating grants exceed 75,000.

However, the key problem here is not the size of these amounts but that the IR is being interpreted to mean that single organisational audits are not acceptable and that auditors must be "members of internationally recognised supervisory body for statutory auditing (SC article 15.6). This can create massive problems for NGOs coordinating many actions in different countries.

For example, at one point ActionAid had a project approved under the Food security budget line, which involved 11 core countries and 21 other participant countries from the South and 7 other participant countries from the North. This could involve an audit in 39 countries with audit expenses that in some countries could be higher than the project cost. Similarly, the Northern Ireland Voluntary Trust pointed out that it had seven sets of auditors including ESF auditors, ERDF auditors and the European Court of Auditors, even for a grant as small as 3,000 pounds[1].

The Commission should also bear in mind that organisations may be subject to multiple inspections, including national tax authorities, national control officials, as well as being subject to general reporting and perhaps even audit requirements required of NGOs by national legislation. It is not unknown for several of these processes to take place simultaneously, clearly placing enormous strain on the organisation, but also leading to unnecessary duplication of effort and increases in cost. In the case of external action, the very fact of receiving funding from a foreign source is likely to increase the attention, often hostile attention, an organisation receives from these types of financial and tax bodies.]

Rigidity of contracts and budget heads

Another problem is the increased rigidity in which contracts are being drawn up.

"Contracts are usually over 40 pages long. For example the grant notification for a symposium on planning and construction was 66 pages long (in duplicate); the grant was 6,920, which because of subsequent rejections was cut to 3,055 euros. Each of the 66 pages had to be signed."[1]

It is also argued that the Financial Regulation does not allow inclusion of *a contingency reserve* within the contract. Section 173 of the FR specifies that eligible cost must be specified clearly in the budget and the contingencies, by definition, cannot be defined ex ante. As a result many departments have decided that they cannot be admitted. Concord provides an example of an NGO which would not have been able to cover the costs of currency fluctuations for this reason.

> "In November, 1999 a B7-6000 grant for a project application in Peru had been submitted, the budget of which had been calculated with an exchange rate of 1EUR=1,05549 $US valid at that time. The transfer of funds affected between May 2000 and March 2003, however, showed an average exchange rate of 1EUR= $ 0,92637 only. As a consequence the project had received about $89,000 less than originally foreseen. Without having been allowed by the EC to use the contingency reserve to compensate for the exchange rate loss the project would not have been able to complete its activities"

Another example, of this growing inflexibility is the way in which *transfers between budget headings* of the budget of the beneficiaries of more than 10% (15% in the case of external action) are being required to obtain time-consuming approval. *even when the overall objectives and budget remain unchanged.* In fact it appears, that the reference to the 10% rule in the Financial Regulation refers to transfers between budget heads of the Commission's own budget. So once again a particular clause is being interpreted as a benchmark and applied inappropriately

There are two consequences:

Firstly a general pressure to provide the least detail possible in the original budget
Secondly actions can be held up considerably unless NGOs undertake them at their own risk without prior authorisation. This risk is considerable

The following example shows the difficulties that some cultural NGO's have in managing activities in their sector

> "It is one thing to be organising conferences and information exchanges. In these cases, if a grant is confirmed in December for the following year, the conference, for example, can still be organised without problem.
>
> However, orchestras and other cultural organisations are in competition to book concert halls and for concert fees to match grants. Competition is great and the concert halls and festivals book sometimes two years ahead. Confirmation of an annual grant at the start of the year means that already some of the best match funding has been lost, as well as some of the most prestigious concerts.
>
> In addition, much of our costs consist of "set-up" - bringing everyone together and rehearsing, and then the "concerts" themselves. If we rehearse for 3 days and give two concerts, this is not good use of funding but unavoidable if we have already lost the concerts to other organisations.
>
> The ideal situation artistically, and for good use of funding, is 3 days of the rehearsal and tour of 10 concerts. I.e. the cost of the rehearsals is used for 10 concerts not 2. Building 10 concerts on consecutive days is extremely difficult and needs long term planning, up to two years ahead.
>
> We can only do this and so make the best use of the funding if we are assured of a grant for a minimum of 3 years, and preferably 5 years. If it is a 3-year grant, work to confirm the following three years should start in the second of the three years. If a 3 or 5 year contract were possible we should still need flexibility to work within the contract - major organisations would confirm early but smaller ones - in Spain and Italy - might well confirm late and their precise details could not be included in an application."
> -

Flat rate payments

Once again standard per diem payments for items like travel and subsistence are frowned upon within the FR. This considerably complicates the organisation of exchanges and international seminars and events.

Return of any interest earned to the Commission.

One of the supposed reasons for the request for separate bank accounts is that the Financial Regulation now also stipulates that any interest earned on sums advanced by the Commission for prefinancing must be clearly identified and returned to the Commission. Previously it could be set against interest paid as a result of delays or paid into the project. In many cases the sums earned are minute but difficulties in tracing and repaying the interest can hold up the entire project. NGOs have actually asked if they can forgo the interest by depositing any pre-financing in interest free accounts.

Retrospective inspections.

According to the Financial Regulation and Implementing Rules, financial and technical inspections can now take place up to seven years after the end of the project as opposed to five years. However, there is evidence that some Member States are interpreting this even more severely. For example, it has been set at 9 years in the Czech Republic

Action or project specific bank accounts.

Until recently, AIDCO has been requiring “action or project specific bank accounts” which can considerably increase the costs for organisation managing several projects. In fact the Financial Regulation (FR 166 and IR 234) only requires that the money be traceable and possible interest can easily be identified and it appears that Aidco is prepared to be more flexible on this requirement

Visibility conditions.

Despite the fact that EU funding can represent less than 50% of project costs one of the EU conditions for awarding grants is that a series of steps should be taken to publicise and communicate the EU contribution. The criticism here is that each project has to produce its own publicity material, however, small the grant, thus considerably increasing the cost.

3.7 WHAT EXPENDITURE IS COVERED? THE CHALLENGE OF ELIGIBILITY

What expenditure is covered?

Payments and acceptance of interim reports does not imply eligibility.
Currency changes
VAT, overheads, depreciation, margins,..
Interest payments (due to delays)

Payment and acceptance of interim reports does not imply eligibility

It can be seen from the previous section that a combination of payment delays and extremely heavy reporting and accounting requirements imposes both a heavy cost and a major risk on civil society organisations that receive funds from the EU. However, this risk is multiplied several times by the condition that states that the acceptance of budgets and project proposals, the signing of contracts, the acceptance of interim reports and interim payments *does not imply that the expenditure is in fact eligible.*

The European Commission reserves the right to take the final decision at the very end when the final reports, accounts and supporting documents are submitted.

It can also terminate the contract or reduce the grant if the project is implemented poorly, partially or late (FR 119)

Finally accounting officers can recover any amounts considered to be due (for example, because they did not meet the eligibility criteria) from other grants awarded by the Commission (FR 73.1.4). This can make it far harder to reconcile project bank accounts and above all penalise beneficiaries that have had absolutely nothing to do with a particular problem.

Interest payments and other financial charges.

As has been mentioned, any interest or equivalent benefits accruing from prefinancing paid must be mentioned in interim and final reports and refunded to the Contracting Authority. However, the real financial costs incurred because of delays in receiving EU payments and specific conditions imposed by the EU such as taking a guaranteed are not eligible.

VAT.

Many, if not most, NGO's cannot recuperate VAT. However, the proposed regulations for Rural Development and the Social Fund do not even consider *non-recoverable VAT* as eligible expenditure. This has the effect of immediately reducing grants by 16%-20% depending on the country.

Contributions in kind.

By definition most non-profit organisation do not have large financial reserves or margins with which to co fund projects. Nor can they necessarily guarantee a flow of national public funds like local or regional governments. One of their main resources is often the commitment of their staff and the energy and voluntary time given by their members. This is particularly true in poor countries and the poor neighbourhoods of richer countries.

In the past some programmes have allowed payments in kind up to a certain percentage of the total cost of the project.

The Financial Regulation does not actually rule out contributions in kind but it makes it very risky for the authorising office to permit them. As a result many programmes have been phasing them out. The situation varies enormously between programmes and countries.

There are two solutions – to increase EU co funding rates to take account of the value of voluntary labour or to provide clear and transparent rules for estimating contributions in kind.

Treatment of overheads.

Some budget lines allow overheads up to a certain percentage of total costs (usually about 7%) as long as it is possible to show that they have been directly generated by the project. However, it is not always possible to show the direct link.

Given the additional non-eligible costs generated by the Commissions financial procedures (interest charges due to delays, the costs of guarantees, heavy application costs, onerous management and reporting costs, the prohibition making a surplus in any one year), this creates a real risk of actually losing money (the insolvency trap). For these reasons many civil society organisations are thinking twice when it comes to applying for an EU grant.

Currency calculations

NGOs argue that the method required for calculating exchange rates in the financial regulation (FR 16 + IR7) does not correspond with reality and can result in major losses for development NGOs'. The rule suggests that conversion between the euro and other currencies "shall be made using the daily euro rate published in the C series of the Official Journal of the European Communities."

"However, as a rule the EC payment received by a European NGO will be forwarded to the Southern partner in tranches over a certain period of time according to the actual needs of the project. The partner will also spend these funds in his local currency over a certain period of time before accounting for it to the European NGO. In these circumstances the weighted average exchange rate of transfers within a given period represents the only means to realistically reflect the value of expenditures in euro" (Concord FDR Working Group)

A cultural NGO also argued that "we provide financial information with actual exchange rates for our accountants and then have to repeat the same information with different exchange rates for the Commission. This doubles the work, which is quite complex when you tour 6 countries with 6 different currencies."

Rules of origin

There are numerous examples of problems created by the "rules of origin" (FR 1.5) which state that all supplies must come from EU or certain approved countries. At present certificates of origin can even be required from very small purchases of supplies (below 5,000 euros)

For example, according to Concorde, a British NGO had serious problems with procurement for a grant for a project in Tajikistan (BL 21-02-03) It was far cheaper to buy vehicles from local suppliers. However the only supply available was of Russian origin, which required derogation, as it did not come from a developing country. They also needed to buy specialist wheelchair equipment and tools which came from the United Emirates.

Confusion about the rules of origin can create the same kind of problem as those described above.

As mentioned, in section 4, the Centre for Environmental Activities Zrodla (Osrodek Dzialan Ekologicznych ZRODLA). [1] is a small Polish Environmental NGO which made a submission for a small PHARE grant in May 2002. There was a tenth month delay and in the end they had to carry out the project in one third of the time originally planned. However, this was not the worst problem

In their project application CEAZ clearly stated that one of their actions would be to buy a photocopying machine worth approximately 2,000 euros in order to copy large amounts of material that would be sent to local authorities across Poland. Once their contract was signed they duly obtained a series of comparative price quotes and acquired the best machine for the price from a Polish shop which was the official dealer for Panasonic Polska, a branch of Panasonic Europe based in London. However, it turned out that the machine itself had been produced in the Philippines and here is when some very serious problems began.

CEAZ were sent a copy of the contract that they were to sign in Polish from the Cooperation Fund a couple of days before they had to travel to Warsaw to sign it. They studied this very carefully and noticed that there was a clause which said that “partners and subcontractors must originate in the European Community or countries eligible for PHARE support”. Just before they actually signed the contract they were handed an English version. Unfortunately, they did not think to cross check this with the Polish version and simply signed it.

If they had done so they would have seen that the clause in question not only mentioned partners and subcontractors but *also supplies.* As the photocopier did not come from the EU or countries covered by PHARE, the European Commission reduced the final grant payment by 2000 euro - value of the photocopier**.**

As we have mentioned, the annual turnover of CEAZ was no more than 20-25,000 euros at the time. So, according to the NGO “the people who worked in the project as coordinators and the people from the executive board responsible for signing contracts agreed voluntarily to contribute. Everybody paid a couple of hundred euro to the organisation to cover the cost of the photocopying machine. The average salary is approximately 200 euros here so this was a big problem. Some people left the organisation soon after…..we learned a lesson - never to trust European Institutions any more

Once again this case, raises one question of procedure and one of substance.

In the first place, nobody denies that CEAZ did actually sign a legal contract saying that it would only buy supplies from certain countries of origin. But given that there was clearly some misunderstanding and poor communication, is it fair and is it proportionate to place the full burden of responsibility on a small NGO?

Secondly, is it really justifiable to tie grant aid to the purchase of EU products when this not only discriminates against developing countries but also contradicts the aim of obtaining value for money by buying the cheapest local product. The need to cross-check and demonstrate the origin of relatively small purchases such as this, also creates an administrative nightmare for both NGOs and the Commission.

3.8 WHEN DO WE START/GET PAID? THE CHALLENGE OF DEALING WITH DELAYS.

When do we start/get paid?

Delays in programme approval, calls for proposals and selection.
Delays in signing contracts.
Delays in first and second (pre) payments.
Delays in final instalments.

Delays in starting projects and receiving payment are *undoubtedly the main problem* referred to by NGOs that receive funds from the European Commission. Delays at all stages have a devastating impact on civil society organisations and on the communities they serve. To a large extent delays are caused by the problems mentioned in the previous sections. One can distinguish delays in grant award procedures and delays in payment procedures.

Delays in programme approval and commencement.

Grant award procedures cannot even start before the programme is approved. For example, the start of the PEACE II programme was delayed by a not unusual 15 months after the formal start-date. Despite gap or emergency funding from national administrations many activities had to be curtailed. In some cases NGOs had to sit by passively and watch while the violence that the programme was designed to combat continued. It is difficult to describe the demoralisation that this creates among people who are often working voluntarily or on relatively low wages. Some of the best staff tend to leave and look for work with a greater future

This situation has been repeated on the ground in countless programmes. For example, in Spain there was a gap of two years between the start of the Leader II and Leader + Community Initiatives. Local development projects cannot be stopped and started in this way. With each delay, local people lose a little confidence in the project and in the European Commission, they cannot plan, they return to what they were doing before, and often they do not come back.

After programme approval, the grant award procedure can be split into a series of phases. Calls for proposals usually include deadlines of between 60-90 days for submitting the projects. Then it usually takes a further 6-9 months (8 months to a 1 year after the call) to be notified of the decision, receive the contract and finally have the contract signed.

Although it was a call for tender (not proposals) the case of the LEADER + Observatory illustrates the devastating effects that delays can have on organisations and the effectiveness of European Policies

One of the central aims of all Community Initiatives is to serve as a test-bed for innovation and the experimentation of new solutions which can later be applied through the structural funds and other mainstream European and National Policies. In order to achieve this, it is essential to establish a system for identifying and sharing the good practice of the partnerships, capitalising on it and translating it into a form where it is relevant for policy. This was precisely the function of the Leader + Observatory

The Communication on the Leader Initiative was published in April 2000 and most national programmes were approved in 2001. The call for tender for the Leader Observatory took place in November 2001 and proposals were submitted three months later in January 2002.

After 9 months thought, in October of 2002, the Commission declared that there had not been sufficient competition in the procedure. Although four proposals had been submitted (and the minimum required was three) two of the four did not meet the very demanding criteria for technical and financial capacity. Using this interpretation, the Commission declared that the entire process was invalid. Some of the companies that had presented proposals and met the selection criteria argue that they had invested at least six months work.

It took a further 13 months to prepare a second call for tender which, apart from a reorganisation of the lots was remarkably similar to the first. The main participants in the first tender applied again The Commission in April 2004 finally took a decision to award the contract for the Observatory to a company that did not participate before. The Observatory did not actually start operation until the Summer of 2004. By this time nearly two thirds of the Leader programme was over

Apart from the enormous cost to the applicants, the Commissions interpretation of the financial regulation meant that it committed more than half of the 2.1 billion of the programme's budget without having any system for drawing out the lessons from this expenditure for the rest of Europe. Moreover, during the four years that there was no central unit for sharing experiences much of the common language that had so painfully been built up during the previous initiative was lost. Can such an impact on the effectiveness of the Commission's policies really be justified in the name of a particular interpretation of procedural compliance?

Delays in calls for proposals and signing contracts

These create another problem for NGOs. The Financial Regulation states that "a grant may be awarded for an action that has already begun only where the applicant can demonstrate the need to start the action before the agreement is signed" (FR 112 + IR 116). Expenditure prior to the *submission of the grant (*rather than the signing of the contract) is only allowed in very exceptional circumstances such as humanitarian aid operations. Moreover, "no grant may be awarded retrospectively for actions already completed"

Although this rule is meant to ensure additionality and to avoid simply reimbursing costs for projects already carried out, the effect of all these clauses is *to shift the risk of providing the project with its necessary continuity away from the Commission and onto the civil society organisations.* This is not a risk to take lightly.

Another effect of delays in actually starting the actions is that the plans and budgets that are approved can be hopelessly out of date. For example, according to Concord, a call for proposals for Budget Line 21-02-03 was issued in December 2002 but the notification of approval was not received until December 2003 and contracts were not drawn up until well into 2004. This means that under existing rules projects may not start until 2 years after their original planning. By this time the context may have changed dramatically by wars, droughts, plant and service closures and so on.

Sometimes the calls are so late that they take advance actions to be carried out in the year to come. This can lead to very strange effects as the case below illustrates:

A call for proposal for the budget-line A-3045 for educational activities to combat racism was published with a deadline of 15 October 2003. Although the budget line was for the year 2003, the call stated clearly that the grant would relate to the work-programme for 2004. However the programme had to start on 31 December 2003, so as to respect the annuality principle of the budget. United for Intercultural Action applied for this grant for its work-programme 2004. They were denied the grant on the basis that they had already received an operating grant under the Youth programme for 2003 (for activities carried out in 2003) and the Financial Regulation excludes an organisation receiving two operating grants in the same year, even if it concerns an overlap of only one day (31 December 2003) caused by the late publication of the call.

The FR states that the Commission has a maximum of 45 days to approve a claim for payment and 45 days to make the payment (total 90 days). Both the time for approval and above all the time for payment are considerably longer than many of the best national bodies that administer large numbers of grants. But even this understates the size of the problem. Following massive criticism for lengthy and bureaucratic procedures, the Commission claims that it has officially managed to reduce approval times from an *average* 14 to 8 months (over the 2000-2002 calls)[34].

However, NGOs argue that these kinds of figures do not get to the core of the problem because as soon as an authorising officer poses a doubt about a claim "the clock is stopped" and the counting starts again. As a result it is quite normal for "pre-financing" instalments to arrive between several months and a year after the activities have begun. This obviously creates major cash flow problems particularly for small organisations.

They have two main alternatives for dealing with the situation. If they are sufficiently solvent they may be able to borrow from a bank and continue with activities.

The situation in LEADER + in Spain illustrates the extremes to which this situation can go. Prepayments to Spanish Leader Partnerships only amount to 7% of half yearly estimated expenditure. The partnerships only receive the balance of the grant when they justify that they have actually paid the grant to the final beneficiary. This money can take over six months to arrive. The result is that partnerships are estimated to have loans averaging between 200,000 euros and 1 million euros to deal with the delay. In fact, a special concession has been made to make the average 4% interest that partnerships have to pay eligible expenditure. Nevertheless the waste is enormous. Moreover many of the partnerships a reaching the limits to which banks will lend them money. This could simply paralyse the programme because they will not be able to present the evidence of payment required to receive the next tranche of their grants.

However, in most programmes, the interest payments on loans are not eligible for EU funding. In addition there are cases when the cash flow problem becomes so severe that the NGOs is unable to meet its obligations and is declared bankrupt. It is not just private enterprises that have to live with this nightmare. Many civil society organisations assume high levels of financial risk despite the fact that there is no return.

The ITAKA Foundation is the only Polish NGO specialising in the problem of missing people. Every year more than 20,000 people disappear in Poland leaving their families with an economic, psychological and legal nightmare The foundation also provides help for sexually abused children and their families.

In June 2004, ITAKA applied for a grant to set up a "24 hour hotline" under the EU DAPHNE II programme to combat violence against children, young people and women. The events that followed show the serious effects that delays and administrative hurdles can have on civil society organisations on the ground.

ITAKA was informed that it had been awarded a grant of 192.752 euros The contract was due to be signed in December 2004 and the start in January 2005. However, in fact, the Commission has not been able to keep to its own financial calendar. At the present time (March 2005), the contract still has not been signed. The grant represents about 60% of the Foundation's estimated income for 2005 so it has been forced to take out very significant loans from banks and private individuals. Some unavoidable staff and overhead costs have continued during the first three months of this year but the Foundation will not be able to cover expenses until the contract is formally signed. If this continues the Foundation risks becoming totally insolvent

[34] Hearing on the EU Budget and NGOs. Committee on Budgets. EU Parliament. 16 June 2003.

Nearly a year will have passed since the submission of the project and the signing of the contract. In June 2004 the exchange rate was 4.6 zloty per euro but know it is only 3.9. This is effectively a 15% reduction in the value of the grant which makes it extremely difficult to stick to all the proposals made in the submission

The other alternative for NGOs is to carry on passing the delays and the risk down the line to the final beneficiaries. The NGO can approve services, projects and activities by or for final beneficiaries without spending any money until the "prefinancing" arrives. This means that suppliers, subcontractors and beneficiaries also carry out the activities at "their own risk".

However, one of the main advantages of civil society organisations is that they are closer people, more flexibly and more agile than many state organisations. If they simply pass on the slowness and inefficiency of the public sector to the communities they serve, their very raison d'être starts to disappear. Their financial capital may remain intact but their "social capital" - the trust of their communities rapidly starts to evaporate. And with it, inevitably, goes the reputation of the European Commission.

The Centre for Environmental Activities Zrodla (Osrodek Dzialan Ekologicznych ZRODLA) is a small Polish Environmental NGO, made up of approximately 20-40 members (mainly teachers, educators, trainers). Its main activities are environmental education among children and youth (through workshops, classes, excursions) and animal protection. At the time of the events described below its annual turnover was around 25,000 euros.

In May 2002, CEAZ made a submission to the Polish Cooperation Fund – Central Finance and Contract Unit[1] for a small grant under the EU PHARE – Access 2000 programme in order to carry out a project called "Exotic Prisoners" about the threats posed by international trade in endangered species of wild fauna. The total cost of the project was approximately 16,700 euros of which 14,700 was to be funded by the European Commission and the rest by the NGO itself.

In absolute terms the delays suffered by the project were not as bad as in many other cases. However, they illustrate the effects that lengthy procedures can have on small projects that have to make their activities fit in with things that are happening on the ground - such as yearly school calendars, seasonal work in farming and tourism and other immovable events.

According to the call for proposals, the results of the applications were to be published in August 2002 and projects could be launched in September. This was important for CEAZ because they had planned a series of educational workshops in schools and this would allow them to make full use of the school year. Their proposal involved starting on September 15 and continuing for ten months until the school holidays of the next year.

In fact, the results of the call for proposals were only published in November and the final contract was signed at the beginning of December, However, CEAZ is a small NGO and could not start activities until the first prepayment had been made. This arrived at the end of March of the next year (2003). The result was that a ten month project started seven months late and had to be carried out in under a third of the time foreseen. CEAZ completed the project, but this kind of delay obviously has an impact on quality and ultimately on the perceptions that both the NGO and the final beneficiaries have of the European Commission.

The final payment brings with it the risk of even longer delays due to the fact that all the project documentation has to be examined. In Leader II in Spain the partnerships had still not received their final 20% tranche 2 years after submitting all the documentation for the final claim and there are cases of regional development programmes not being closed five years after completion[35].

[35] Strategic evaluation of the Management Methods of EU Programmes. Op cit.

4. HOW TO MAKE THINGS BETTER.

4.1 GETTING THE PRINCIPLES RIGHT

In section 3 of this report we argued that a number of transversal principles ran through the way in which the European Commission funded civil society organisations.

SOME OF THE MAIN PRINCIPLES CURRENTLY AFFECTING THE FINANCIAL RELATIONSHIP BETWEEN NGOS AND THE COMMISSION

Too much weight is given to the principle of economy
Economy is interpreted as strict procedural compliance requiring exhaustive documentary *proof.*
There is a tendency to spread the risk of non compliance and pass it down the line
One is size seen to fit all.
There is a narrow definition of efficiency unrelated to effectiveness
Calls for proposals from civil society are treated like tenders from private companies

In the following pages we list five steps, which could dramatically improve the situation.

1. A true partnership: The Commission should consult with Civil Society Organisations and negotiate a clear framework of rights and responsibilities.

This is both the first and most important recommendation. There are several examples of how individual EU departments can advance towards a more balanced approach to "sound financial management" by consulting and negotiating the procedures with the NGOs directly affected (for example, discussions between AIDCO and the FDR Working Group of Concord

In the short term, the FR and IR should be "proofed" or revised with a view to improving their impact on end users from civil society. There is an urgent need for simplification and ensuring that all procedures are *proportionate* to the risks involved.

In addition to these immediate proposals, it is recommendable to start to consult and negotiate a longer-term framework for improving the financial relationship between the Commission and Civil Society. This could be based on an agreed set of rights and responsibilities for each party[36].

One of the central aspects will be the way in which civil society organisations will be actually involved in the *partnerships* which are meant to cover the preparation and monitoring of the national strategic reference frameworks for the structural funds as well as the preparation, implementation, monitoring and evaluation of the operational programmes (article 10 of the proposed regulation laying down the general provisions of the ERDF, the ESF and the CF).

Although opinions differ on the subject, one possible model for a longer term framework between civil society and the Commission can be seen in the *"compacts*" (contracts or agreements) that have been negotiated between national governments and civil society in a

[36] These could be linked with the drives to improve two other key aspects of EU operations that are receiving singular attention: the transparency initiative by Commissioner Kallas, and the communications policy drafted by Commissioner Wallström.

number of Member States such as the UK and France While not necessarily suggesting that the EU should necessarily adopt either the same name or precise form of the compact, there is clearly a lot that could be gained by adopting some of the central elements. The following example clearly highlights some of the advantages of one of the most advanced "compacts" – that of the UK – for the financing of NGOs.

The "compact" signed between civil society and government in England in 1998 is an agreement between both parties to improve their relationship for mutual advantage. For example, the government commits itself to respect the independence of the voluntary and community sector, consult early enough to make a difference and to recognise the cost of doing business when funding public service delivery. For its part, civil society organisations commit themselves to operate through open and accountable organisations, involve all stakeholders and embrace diversity and contribute constructively to public policy. 90% of local authority areas now have local compacts.

Both the local and the national agreements are reinforced by a number of instruments such as the compact advocacy programme (run by the National Council of Voluntary Organisations) to help civil society organisations that feel that a principle or clause has been broken, a compact mediation scheme and finally specific reference to the parliamentary ombudsman.

The Compact for England has produced a series of codes of practice. The Funding Code, for example, recognises "that independent not-for profit organisations fulfil a crucial role that is distinct from both the state and the market". "In particular they enable individuals to contribute to public life and the development of active communities by providing opportunities for voluntary action. They act as pathfinders for the involvement of users in the design and delivery of services and often act as advocates for those who otherwise would have no voice"

The UK government estimates its spends around 4 billion pounds annually to promote civil society divided equally between grants and purchases. In order to maximise the benefits of this expenditure for the whole of society, the Funding Code contains a series of principles which, if implemented at EU level, would considerably improve the financial relationship between the Commission and NGOs. The following provides some examples of some of the financial guidelines which are most relevant for civil society.

FINANCIAL GUIDELINES IN THE "COMPACT" FOR ENGLAND

Examples of government commitments:

To consult relevant voluntary and community organizations on the development of new funding programmes and evaluation of existing programmes.

To provide opportunities to discuss potential applications with applicants, provide training for both applicants and support organizations, ensure a central contact point, make use of simple guidance notes and packs, simplify application forms……

To improve sustainability and longer term planning through *strategic multiyear roll-forward funding* (three year - reviewed annually).

To recognize that *core cost* can and should be met in different ways for both project and operating grants. Examples of eligible core costs include "fundraising, research and development, staff training, membership support, quality assurance…). There is a requirement to demonstrate value for money and the contribution to project objectives.

To recognize the need for "development funding" or investments in the capacity of voluntary or community organizations

To invest in civil society's own infrastructure for assisting NGOs.

To adopt a flexible approach when determining match funding requirements. This should reflect the applicant's realistic ability and the time needed to raise match funding.

To consider volunteer time and other in kind contributions such as donations of equipment, premises materials, etc.

Examples of civil society commitments:

To maintain "*effective and proportionate* systems for the management, control accountability, propriety and audit of finances."

To maintain systems for "quality assurance and accountability to service users"

To have "policies for ensuring equality of opportunities in both employment practices and service provision"……

2. Technical assistance to increase the capacity of both the donors and recipients of finance for civil society organisations at all levels.

This technical assistance should take at least two forms.

Firstly, we support the idea (proposed in the Striking the Balance Report) for the creation of an EU department/unit that becomes a central point of reference and expertise for all organisations, departments and units which award commission grants. This department or unit should collect information on good practice and benchmark the procedures used within the Commission, by other international donors, national government departments and foundations and charities (see the next section).

It should also organise exchanges, training, seminars and information packs on good practice for the officers responsible for EU funding to civil society in different member states. This could use a "cascade" methodology. Methods and training material should be piloted at EU seminars and then adapted and extended to meet specific sectoral or national contexts.

Secondly, as the Compact for England says, there needs to be "investment in civil society's own infrastructure for assisting NGOs".

The Welsh Council of Voluntary Action (WCVA) provides a good example of how such civil society infrastructure can work and its effects on the involvement of civil society in all stages of EU funding

INVESTING IN THE CAPACITY OF CIVIL SOCIETY. WCVA

There is a mosaic of around 30,000 civil society organizations in Wales - many of which are small community groups with neither full time staff nor a regular source of income. However, around 1,000 of the most important organizations belong the WCVA, an umbrella group established in 1934, to give both direct support NGOs and to provide them with a stronger voice in policy.

The WCVA is one of the main civil society networks represented on Wales' Voluntary Sector Partnership Scheme, which acts as a bridge between the devolved Welsh government, the Assembly (parliament) and the voluntary sector. The Partnership is chaired by a Minister and meets three times a year. The scheme has produced one of the first European "compacts" with a special code of conduct for funding the voluntary sector.

Over the last 10 years the WCVA has also become the key advocate of NGO interests in the design, implementation and delivery of the Structural Funds. It led the consultation with the voluntary sector on the development of the Objective 1 Single Programming Document and was actively involved in setting the agenda of the pillar on Community Economic Regeneration. At present, it represents the voluntary sector on the monitoring committees for all 3 Structural Fund Objective Programmes (which jointly represent around 1.36 billion euros of expenditure 2000-6), as well as being on the national advisory group on implementation and on several thematic advisory groups.

WCVA its self manages a wide package of EU projects with a total expenditure of 50.2 million euros and a staff of 26 people focused on strengthening civil society. One of these projects involves an expenditure of 1.8 million euros for technical assistance to fund the "Voluntary Sector Support Unit". The Unit employs a team of advisors working across Wales who assistance to voluntary sector organizations wishing to apply for European funding.

INVESTING IN THE CAPACITY OF CIVIL SOCIETY. WCVA

The VSSU provides technical assistance in a number of ways:

Confidence and capacity building activities including: Basic Information seminars, completion of forms, match funding advice, record keeping courses, claims courses, compiling budgets, alongside interactive workshops covering draft applications, draft claims, monitoring visits, consultation on a specific problem basis.
Dissemination of current information: Twice monthly European updates in voluntary Sector network magazine, basic information handouts, flowcharts and process simplification, facts sheets, flyers, updated good practice booklets for record keeping, monitoring, evaluation etc., extensive use of web-site with links to all appropriate others.
Addressing the needs of geographical spread: 3 European support officers and administrator work in each North, West and Valleys Wales areas. There is also telephone helpline service.
Full publicity of European Programmes: Using all mechanisms listed above, development of a publicity strategy and policy for Europe which could be adopted by other organisations as a toolkit.
Representation of Voluntary Sector: Increased capacity to represent on Programme Monitoring Committees, Partnerships, steering groups and task forces, participation in external events and workshops
Promotion of Equal Opportunities: Identifying and developing appropriate ways to increase participation of organisations not accessing EU funds, including those best place to provide service to ethnic minorities, people with disabilities and women

According to the WCVA the result has been a notable improvement of the projects approved by the funding authority. Civil society organizations in Wales have also achieved a far higher presence in structural fund projects than in most EU countries. *For example, research showed that they represented over 20% of the total projects and 10% of the total funds for the entire Objective 1 Programme*

The WCVA example shows what national and regional authorities can do under the existing regulations. However, there are plenty examples of authorities taking far more restrictive approaches than are strictly required.

3. The Commission needs to develop a range of grant funding systems which meet the needs of different sizes and sectors of projects and NGOs. In particular, global grant schemes could be extended throughout Europe to ensure the access of smaller NGOs.

We have argued that one of the greatest dangers of grant funding for civil society is to assume that “one size fits all”. Financial procedures and circuits have to be designed sensitively not only to ensure economy and efficiency but also effectiveness for final beneficiaries.

This means drawing on a menu of different types of grant funding and different types of procedure. As the Compact for England says there should be a balance between *strategic operating* funding, different kinds of *project* funding and *development* funding

But the specific context, the nature of the managing authority and the small print in the procedures can completely change the outcomes of different methods so it is not possible to make blanket recommendations.

For example, two stage application procedures can be a faster way of allowing NGOs to test the level of interest in certain innovative ideas in a short concept paper and only work on those that have a higher chance of success. However, once again, if too much detail is required for each stage, it can actually make the procedure longer and more complex.

As mentioned above, general principle is that funding mechanisms and procedures need to be *"proofed"* for the impact on civil society organisations.

Within this general caveat, it is safe to say that global grant schemes have generally been found to be an extremely effective mechanism for speeding up and simplifying the provision of grants *to small organisation*. The general principle is that the European Commission provides a global sum of money to an intermediary organisation, which provides the necessary match funding, assumes responsibility for the risk, and internalises the procedures for accounting for the grant to the Commission. It then breaks down the procedures and sums of money into amounts that are digestible to small NGOs. One of the testing beds for this approach was the Social Capital Risk Fund run by the European Social Fund

The intermediary organisations can be state or para-state agencies, foundations, charities and umbrella organisations of NGOs themselves. For the reasons mentioned above, civil society organisations tend to favour the last three. The Social Risk Fund run by the WCVA is a good example of a fund managed directly by an NGO umbrella organisation

THE SOCIAL RISK FUND. WCVA

The scheme aims to provide community and voluntary groups with easy and speedy access to European funding. WCVA have drawn a package of funds together from the European Social Fund under the Objective 1 and 3 programmes and from the National Assembly for Wales. Euro 8.4 million of ESF grant has been secured for 2000-2006

Aims
Grants are available for voluntary and community groups that can show how their project will contribute to longer economic regeneration, through raising skill levels and increasing access to, and widening participation in education, training, and employment for specific target groups.

Grant size and match funding
The scheme provides 100% grants for eligible project costs for projects of up to 15,000 euros.

Application procedures
There are no set deadlines for applications so groups can apply for funding at anytime during the lifetime of the scheme using very simple forms

Eligibility
Simple conditions include being a legally constituted. community/based voluntary organisations, independent of government and private sectors with an annual income less than 150,000 euros.

Approval
80 % of all applications are turned around within 30 working days.

Accounting and reporting systems
All successful applicants are given a "Good Management" pack that provides them with the necessary paperwork and forms required for successful monitoring of their projects. A team of 4 funding advisors is available to help them establish the financial and monitoring systems required for successful implementation of a project.

Payment
All applicants are paid 30% of their first years funding within 7 days of WCVA receiving their signed contract letters. Quarterly claims are then sent to project applicants when due on receipt of these WCVA processes and pays the claim within 7 days.

4. There must be a more balanced approach to risk and responsibility in all the Commission's financial procedures

The Commission is actually encouraging civil society organisations to be innovative and experiment with new solutions in rapidly changing socio-economic situations. In this context it is never possible to be "certain" or "correct". In fact it may be quite justifiable to consciously take a high risk in return for the prospect of important social and/or economic gains. In such situations it is possible to spread the risk across a portfolio of projects. But to raise the spectre that authorising officers and civil society organisations may be individually liable for such risks (and to treat them as if the were potential wrong-doers) will clearly shut down the prospect of pioneering social change.

In general, there must be a clear distinction between corruption and wilful mismanagement and the fact that, due to the force of circumstances, events may not turn out as expected. This more balanced approach to risk should be applied to a number of areas.

- *The responsibility of authorizing officers.* The Financial Regulation makes the authorizing officer liable to the repayment of compensation (to make good losses in whole or in part) of any damage suffered by the commission among other things "for not complying with the FR and its accompanying implementing rules" (FR.66).

  ECAS suggests that a doctrine of "good faith" should be applied to this clause. They base this on the precedent applied by the English courts to charity trustees. Technically these are personally liable for losses incurred by their charities as a result of mismanagement or abuse. However, the English courts have ruled that the trustees will not be pursued if they acted in "good faith" [37] Intentional mismanagement or abuse is treated differently. This same principle could be applied to *civil society project managers*.

  Another complementary approach is to arrange insurance cover for authorising officers acting in good faith.

  The report "Striking a Balance" also argues that authorizing officers should not just be liable to a series of penalties but also to incentives for achieving efficiency and effectiveness (for example, it should be reflected in evaluations and taken into account for promotions).

- *The design of contracts, reporting and auditing requirements and the certification of financial claims.* The requirement that procedures should permit auditors and authorizing officers to endorse decisions as "certified correct" (FR 99) is one of the main causes of an endless and disproportionate spiral of checks and documentary evidence. But despite the heaviness of procedures, in the context mentioned above, it is never possible to be certain of correctness. For this reason, the onus of proof should be shifted towards assuring that checks provide "reasonable assurance" that actions and claims have been performed in "accordance with the contract"

5. The Commission should move towards "client or user led" approach in the design of its financial and administrative circuits and procedures.

Modern private and public sector management recommends that the client or user should be king (or queen). But most of the Commissions procedures are heavily producer or supply led. The report "Striking a Balance" suggests that the FR and IR should be merged and written from and end user point of view. If this is not possible then at the very least user friendly guides should be written for different types of client.

[37] That is "that they think that they are doing the right thing however foolish or misguided they may be." The Financial Relationship between NGO's and the European Commission. A report written by Andrew Crook. ECAS.

ECAS suggests that, in the mean time a series of derogations similar to those applied in the Erasmus programme should be applied to make the procedures more user friendly.

We believe that if the four principles mentioned above were applied systematically this would considerably improve the situation. In the following sections below we have used the framework used throughout the report to analyse some of the detailed changes required to produce a more user-friendly relationship between the European Commission and civil society.

- Make it easier to find out
- Adapt entry requirements to needs
- Reduce the difficulties and cost of making an application
- Make it easier to manage the grant
- Reduce delays
- Develop clearer and more flexible eligibility rules

In each case we try to distinguish between changes that require a modification in the regulations and those which do not. We have produced a preliminary list of suggestions many of which are based upon existing recommendations by civil society organizations. This can be read separately or used as resource. The list is by no means comprehensive but we hope that it provides the basis for discussing a far more productive relationship between the European Commission and civil society.

4.2. MAKING IT EASIER TO FIND OUT

MAIN PROBLEMS DETECTED

Multiplicity of funding sources.
Diversity of procedures.
Insufficient technical assistance and outreach.
Match funding sources

These issues can be treated together as a block

LINKS WITH THE FR AND IR

This is one area in which an enormous amount can be done *without changes in the FR and IR*. However, there needs to be a clarification of FR 109 which states that the "award of grants shall be subject to the principles of transparency and equal treatment." This should *not* be interpreted to mean that there is no personal contact, advice or assistance *after* a call for proposals has been made. Only that all applicants should have the *right to the same attention.*

RECOMMENDATIONS

Create an EU unit that becomes a central point of reference and expertise for all organisations, departments and units which award Commission grants
Carry out a benchmarking analysis of good practice funding NGOs across EU departments. Carry out a similar analysis of good practice among the Member States and international organizations. The analysis should deal with both the efficiency and effectiveness of procedures for both donors and beneficiaries (NGOS).
One of the functions of the proposed Commission unit should also be to provide a site where national practices are gathered and analysed, so that excess burden placed on NGOs by national rules and regulations are recognised and the Commission can propose alternative ways of making EU funding work better.]
Ensure that the budgets for technical assistance are also used to train and spread good practice among officers responsible for dealing with NGOs
Ensure that a sufficient proportion of the budgets for technical assistance are used to invest in civil society's own infrastructure for assisting NGOs by provide training, advice and outreach.

4.3. ADAPTING THE ENTRY REQUIREMENTS TO NEEDS

MAIN PROBLEMS

Minimum grant size
Match funding requirements
The no profit rule
Conditions relating to financial and technical capacity
Bank guarantees

MINIMUM GRANT SIZE AND MATCH FUNDING REQUIREMENTS

LINKS WITH THE FR AND IR

Once again, this is an area where there is a large margin for maneuver without change the FR or IR.

Minimum grant sizes depend only upon the design of each programme and call for proposal.

The FR states that all grants *must* involve cofinancing (FR 109) but does not specify any limits.

However, maximum percentages for EU co-financing are specified in the general and specific regulations for programmes and individual budget lines.

Payments in kind and voluntary labour are only considered as match funding in duly substantiated *exceptional* circumstances (FR 113 and IR 172)

Grants from the Commission are expressed as a percentage of project expenditure. This can create a vicious spiral where inability to raise a certain level of co-financing causes a further automatic reduction the EU grants. It can also contribute to under spending.

RECOMMENDATIONS

The EC should adopt the general principle that entry conditions such as the minimum (or maximum) size of grant, co-financing requirements and conditions relating to financial and technical capacity should be proportionate and tailored to the context of the call for proposals

These conditions should be discussed with NGO's in the relevant areas.

For small grants and certain types of action (such as human rights) the EU should be able to fund 100% of the cost.

Payment in kind should be eligible as a matter of course

Especially where the Commission does not itself have the human resources for dealing with a large number of small applications and beneficiaries, there is room for using global or micro-grant schemes supervised by intermediary organizations which have the ability to assume the risk of providing the match funding

Far more use can be made in general of civil society organizations and their representative organizations as intermediary bodies.

In the event of unexpected reductions in co-financing, authorizing officers should be able to renegotiate the percentage of community funding so as to cause the least damage to projects. In this context grants should contain a fixed amount (in certain cases - all eligible costs) instead of a percentage, which should not be automatically reduced if the budget of the project is reduced unless this amount becomes greater than the maximum percentage of eligible EU cofinancing as specified in the legal bases.

THE NO PROFIT RULE

The definition of grants in the FR rules out making any kind of surplus. NGOs argue that this can rule out supporting small income generating activities for excluded groups

LINKS TO THE FR AND IR

Grants may not have the purpose or effect of producing a profit for the beneficiary (FR 109, IR 165)

RECOMMENDATIONS

There are various possibilities

Exceptions to the rule should be allowed for capacity building and small income generating schemes for *in both developed and developing countries.* There needs to be a recognition that the aim of some grants is help certain organizations become more financially independent.

"Striking a Balance" recommends that NGOs should be able to receive up to 100% funding from the Commission and make a margin if this is from other sources subject to a maximum percentage and the commitment that the margin should not be distributed.

FINANCIAL AND TECHNICAL CAPACITY

LINKS TO THE FR AND IR

The requirements relating to financial and technical capacity are laid out in considerable detail in the (FR 114-116 and IR 173-179).

The selection criteria should be such as "to make it possible to assess the applicants financial and technical capacity to complete the proposed action or work program" (IR176.1). "The applicant must have stable and sufficient resources of funding to maintain his activity throughout the period during which the action is being carried out…" (IR 176.2). This can rule out the newer and smaller NGOs.

One of the clauses criticized by NGO states that the if the cost to be financed exceed 300,000 euros or 75,000 for operating grants, the application has to be accompanied by an external audit report produced by an approved auditor (IR 173.4)

Nevertheless, there is considerable margin for maneuver when it comes to the design of the calls for proposals. Unfortunately, many impose even more stringent conditions. For example, the IR only requires one year's profit and loss account and balance sheet (IR 173.2). In practice, calls for proposals usually require three.

RECOMMENDATIONS

It must be recognized that certain grants have the objectives of building up the organizational capacity of the weaker members of society. In other cases the aim is encourage new ideas and ways of thinking. In both cases, it is necessary to make the financial and technical conditions more flexible

The requirements should be proportional to the size of grant and tailored to the objectives of the call for tender.

In some cases it also makes sense to reverse the order of project selection to given more opportunity to NGO's that are good on content but weaker in terms of justifying past financial and technical capacity. First the content of the proposals should be examined by a brief call for expressions of interest. Then systems should be designed to help NGOs to meet the technical and financial criteria.

BANK GUARANTEES

LINKS TO THE FR AND IR

There is also more margin for maneuver in the requirements for guarantees than is commonly supposed.
FR 118 simply states that authorizing officers *may* require the beneficiary to lodge a guarantee. However, IR 182 makes a guarantee obligatory where the pre-financing represents over *80%* of the grant *subject to the assessment and acceptance of the authorizing officer responsible.* Here the general management principles mentioned above put pressure on authorizing officers to err on the side of caution rather than responding to circumstances.
The same clause imposes slightly more lenient conditions for NGOs operating in the field of *external action.* In these cases guarantees are obligatory when pre-financing reaches *90%* of the value of the grant or *more than 1,000,000 euro.*

RECOMMENDATIONS

There are a number of alternatives:

The first is simply to increase the size at which guarantees become obligatory. For example, Concord recommends that a guarantee is only required for *single installments* over one million euros not one million over the life of the project. This could be applied *to all NGOs* not just those in the field of external action
A second stronger approach would be to remove all *the compulsory conditions* and establish the principle that authorizing officers would only demand a guarantee in cases where there was no other satisfactory alternative for controlling an unusually high risk.
The third, more radical approach would be to remove *the option* to require financial guarantees from the Financial Regulation. “Striking a Balance,” argues that if there is significant risk to advance funding, the Commission should change *to paying quarterly in advance*. In order, to speed up such payments, the report argues that authorizing officers should simply review claims in terms of a description of work done against plan. They should not have to certify correctness and should rely on spot checks by auditors and review meetings.
It is important to consult the banking sector in a significant number of Member states to assess what financial instruments are available, and at what cost, to fulfill the aims of the Commission.

4.4. REDUCING THE DIFFICULTIES AND COST OF MAKING AN APPLICATION

The last section considered a series of requirements which may *exclude* certain civil society organisations. However, even if they are not actually prevented from applying many of the procedures mentioned above may cause unnecessary costs and delays. In the end these additional costs may mean that it is simply not worth applying. In fact, NGOs argue that Commission is increasingly being seen as a last resort after foundations and other national and international donors have been tried. In practice this means that the current EC procedures effectively cause the EC to be marginalized and cut out from the international funding environment.

MAIN PROBLEMS

Complexity of application procedures.
Weight given to administrative and formal criteria.
Time/cost of handling information v size of grant
Cost and risk of failure
Over prescriptive criteria

LINKS TO THE FR AND IR

The main financial and technical requirements in the IR have been mentioned in the last section (FR 114-116 and IR 173-179).
However, the main problem which increases the cost of making an application is not so much the items that have to be provided but the level of detail and proof that is require. Once again this comes down to the interpretation that authorizing officers and auditors have certify that claims are "correct"
The exclusion criteria which screen for financial and legal eligibility usually have to be repeated for every application. This is estimated to take around one third of a 4.5 month application process.

RECOMMENDATIONS

There should be a general principle that the Commission will only ask for the minimum amount of information needed to evaluate and award the grants. The information should be proportional to the size of the grant, the size and resources of the beneficiary, the risk and the type of activity.
All the information required for assessing eligibility and applying the exclusion criteria should be fed into *a central database* and updated annually. The EC could draw on this information for all grant applications.
The Commission needs to develop arange of grant funding systems which meet the needs of different sectors and sizes of NGOs**.** These should include: *Multiannual Strategic Operating* funding, different kinds of *Project Funding*; and *Development Funding* which is designed to create rather than use existing civil society capacity.
Global grant schemes could be extended throughout Europe to ensure the access of smaller NGOs
However, there is also a gap in effective procedures in the range of 10-20,000 (under which micro grants operate) and 2-300,000.
The costs of applications have to be considerably reduced. Flat rate contributions could be made towards the cost of an application for grants below a certain thresholds.
Two-stage selection process can speed up procedures and give a greater priority to content. But this can increase costs if too much detail is required.
Certain calls can remain open all the time to proposals from civil society

4.5. MAKING IT EASIER TO MANAGE THE GRANT

MAIN PROBLEMS

Heavy accounting and reporting systems
Audit requirements
Rigidity of budget heads.
Complexity/rigidity the contracts
Other specific problems

The content of grant agreements is specified in the IR (IR164 FR 108). However, the detail in which these items are requested is often out of proportion to the size and purpose of the grant.

AUDIT REQUIREMENTS

LINKS TO THE FR AND IR

The IR states that "an external audit of the accounts produced by an approved auditor *may* be demanded by the authorizing officer responsible in support of any payment on the basis of his analysis of management risks". This must certify that the accounts are "sincere, reliable and substantiated by adequate supporting documents" (IR180.2)
Audits are compulsory for interim payments over 750,000 euros pa and per agreement, payments of balances over 150,000 and payments of operating grants over 75,000.
However, the main problems mentioned by NGOs once again refer mainly to the interpretation of the rule. In particular:
Separate EU audits are being imposed on top of NGO's own organizational and country based auditing systems rather than using and complementing them, This can lead to extremely heavy requirements for multi-country programs.
The scope of the audit is often unclear and certificates can go beyond the IR to require "correctness". NGO's show that this increases costs and creates major delays which can result in cash flow problems. This also creates problems with auditors, since the EC request for "correctness" goes far beyond that which is part of accepted international standards of auditing.
Some contracts require the auditor to be a member of *an internationally recognized supervisory body for statutory auditing* as in the standard contract for external actions, which increases costs and may be less appropriate for NGOs

RECOMMENDATIONS

EU should accept annual organizational audits and the proper financial reports as specified by national legislation.
The EU is to clarify the definition of project specific audits, the nomination of auditors and their terms of reference and the scope of the audits. All audit requirements should be appropriate, tailored to the risks involved and respect the national context of the action in question, as well as internationally accepted standards of auditing.

RIGIDITY OF CONTRACTS AND BUDGET HEADS

LINKS TO THE FR AND IR

Recent interpretations of the FR have led some to conclude that it is not possible to include a *contingency reserve.*

The IR contain a requirement that transfers between budget heads *of the Commission's own budget* should not exceed 10% without prior authorization. This is being interpreted to imply that the budgets of grant-aided projects should be subject to similar rules. In the case of external actions the figure has been set at 15%

There is a growing tendency to consider that any changes to work plans (including transfers between budget heads) require a full contract amendment. This means submitting the proposal in writing and going through another lengthy procedure of approval.

RECOMMENDATIONS

Contingency reserves should be allowed to deal with unforeseen circumstances

Transfers between budget heads should be allowed where this does not affect the basic purpose of the action.

Alternatively, for the purposes of (limiting) transfers, budget heads should be provided at a fairly high level of aggregation (e.g. the three line budgets used by ECHO) even if there is more detailed working budget

Contracts should be designed to be flexible and reactive to changes on the ground as long as the substance or main objectives of the project remain the same.

Desk officers should be allowed to approve amendments to contracts

Technical assistance, training and information packs should be provided to civil society organizations

OTHER SPECIFIC MANAGEMENT PROBLEMS

RELEVANT SECTIONS OF THE FR AND IR

Any interest or equivalent benefits from prefinancing must be identified, mentioned in interim and final reports and returned to the Commission.
There is a tendency to increase the period over which the Commission can request retrospective technical and financial checks. For example, 7 years in the standard contract for external actions and 9 years for the structural funds in the Czech Republic.
In the case of external actions, the FR and IR require that accounts shall be opened with financial institutions in the recipient states…*the title of these accounts shall make it possible to identify the funds in question*. (234 FR 166)This is being interpreted to require project specific bank accounts which can greatly complicate and increase the cost of managing many projects.
Deadlines for final reports can be insufficient for completing audits, particularly in projects involving various countries
EU requirements for visibility can be excessive in relation to the proportion of the project funding

RECOMMENDATIONS

There are various possibilities for dealing with interest earned on prefinancing. Some argue it should be possible to set it off against the financial costs of delays and/or be ploughed back into the project. Others argue that there should be a threshold for returning interest and that projects should be able to use the interest *as long as this does not increase the percentage of EU funding.*
Internal accounting systems should permit EU grants to be tracked but this should not require one account per project. If deemed absolutely necessary separate accounts should only be required for project with grants of over I million euros
The rules for maintaining records should be proportional to the size of grant and not normally more than 5 years (unless national legislation demands a longer period). The period for making retrospective claims could be shortened in line with the rules for maintaining records.
Deadlines for the submission of final reports should be realistic
The use of EU publicity material (flags, stickers, etc) should be provided centrally

4.6. CLEARER MORE FLEXIBLE ELIGIBILITY RULES

MAIN PROBLEMS

Payments and acceptance of interim reports does not imply eligibility.
Interest payments (due to delays)
Unclear on unjust requirements: currency changes , VAT, overheads, rules of origin….

LINKS TO THE FR AND IR

The authorising officer is meant to suspend payments, reduce grants or demand reimbursement when: the agreed action or work program is not carried out at all, *or is not carried out properly, in full or in time; Where* the financial ceilings the agreement have been exceeded or the work program has been carried out at a lower cost; Where a surplus has been generated (FR 119 IR 183):

The amount of the grant "does not become final until after the institution has accepted final reports and accounts without prejudice to subsequent checks by the institution". In other words, interim payments and audits do not mean acceptance. In fact the project can be reopened up to seven years after completion

The Commission can recover amounts by offsetting them against other claims by the beneficiary (e.g. the grants for other projects - FR 73)

Interest or equivalent benefits accruing from prefinancing paid must be mentioned in interim and final reports and refunded to the Contracting Authority. However, the real financial costs incurred because of delays in receiving EU payments and specific conditions imposed by the EU such as taking a guaranteed are not eligible.

The proposed regulations for Rural Development and the Regional Fund do not even consider *non-recoverable VAT* as eligible expenditure. This imposes an additional tax on civil society.

The FR does not actually rule out contributions in kind but it makes it more risky for the authorising office to permit them. As a result many programmes have been phasing them out. The situation varies enormously between programmes and countries

Standard per diem payments for items like travel and subsistence are frowned upon within the FR. This considerably complicates the organisation of exchanges and international seminars and events

There is a tendency away from allowing projects to charge a fixed percentage of overheads (7%). These levels were low in the first place. The requirement to show exactly how projects have generated overheads is open to interpretation and creates unnecessary risk for NGOS

The method required for calculating exchange rates in the financial regulation (FR 16 + IR7) does not correspond with reality and can result in major losses for NGOs'

There are numerous examples of problems created by the "rules of origin" (FR 1.5). At present certificates of origin can even be required for very small purchases of supplies (below 5,000 euros)

RECOMMENDATIONS

There should be a clear understanding that grants will not be automatically reduced when external circumstances create delays or reductions in actions which do not reduce costs (subsidy given as an amount and not as a percentage; see section on percentage rule)

The period for questioning eligibility between interim and final payments should be limited in time, except for cases of corruption or willful mismanagement

Increase EU co-funding rates, or make more and better use of the value of voluntary labour and provide clear and transparent rules for estimating contributions in kind.

It should not be possible to offset claims against other projects

Interest below a certain amount should not be repayable to the Commission but retained for the project.

Interest and other financial charges and guarantees caused by delays or required by the Commission should be eligible

Non-reimbursable VAT should be considered to be eligible expense

Standard flat rate payments could be established as the norm for many types of activity.

Projects should be allowed to charge a certain standard percentage for overheads without any further justification. Additional overheads generated by the project should be negotiated on a case-by-case basis.

The method of calculating exchange rates should clearly reflect the real cost to NGOs of transactions to NGOs

The rules of origin should be abolished

4.7. HOW TO REDUCE DELAYS

To a large extent, delays are caused by all the obstacles mentioned in the previous sections.

MAIN PROBLEMS

Delays in programme presentation, approval, calls for proposals, selection, signing contracts, start. This can be anything between 18 months - 4 years and have a devastating affect on civil society organisations and the communities they serve

Payments delays: first and subsequent (pre) payments; delays in final payments. Once again this can cause major cash flow problems, major costs and in some cases the ruin of civil society organisations.

DELAYS IN PROGRAMME AND PROJECT APPROVAL AND START

LINKS TO THE FR AND IR

The inordinate delays that very frequently occur between presenting and starting programmes and projects are caused by a number of factors including: genuine political and technical differences between donors and beneficiaries, insufficient human resources and, finally, excessively complex procedures and information requirements.

Only the latter is related to the FR and IR. Much of this has been dealt with in the last section.

RECOMMENDATIONS

Clearer targets and deadlines must be set to limit the time between programme and project presentation and start.

There should be both incentives and penalties related to the targets

Dialogue and negotiation must be encouraged to resolve differences at all stages.

Internal Commission resources must be sufficient be commensurate with the volume of work.

Technical assistance and training must be available to both sides.

Information requirements and procedures must be proportionate to the size and purpose of the grant as mentioned in the previous section.

Procedures urgently need to be established to prevent delays causing damage to communities and to civil society capacity. For example, reserves should be established for interim or emergency funding which can be claimed back once programmes start officially

DELAYS IN PAYMENT

RELEVANT SECTIONS OF THE FR AND IR

The FR states that the Commission has 45 days to approve a payment + another 45 days to make the payment once it has been approved.
There is implicit approval if the Commission does not reply within these time limits
However, the major problem is that any questions or doubts expressed by the Commission effectively stop the clock and the counting starts again.
Once again delays may be caused by genuine political and technical differences between donors and beneficiaries, insufficient human resources and excessively complex procedures and information requirements.
Only the latter is related to the FR and IR. For the first two problems the same recommendations as made above should apply

RECOMMENDATIONS

There are a number of specific recommendations related to payment delays.

To prevent log jams, where possible there could be a move away from annual cycles towards multiannual rolling programmes and open calls for proposals.
Once a payment has been approved it is excessive to allow 45 days for making payments. 5 days is sufficient (Striking a Balance)
Prefinancing should be paid automatically within 5 days of signing the contract (Striking a balance)
Stopping the clock should occur less frequently once that the eligibility rules are clearer, overheads and flat rate payments allowed, contributions in kind more frequent, the percentage rule overhauled, the rules of origin abolished, etc. With all such improvements stopping the clock should no longer be a general rule but an exception that occurs in certain circumstances, like when the beneficiary has not supplied the information requested)
One could also consider having a maximum period for approval taking into account stops in the clock (15 days for interim payments according to Striking a Balance). If the Commission has not accepted or rejected a payment within this period, “implicit approval” should occur.
The Commission must communicate the reasons for non-payment
The existence of an ongoing audit should not be a justification for automatically delaying payments unless the audit is carried out because there are grounds for suspicion of willful misconduct and/or corruption which have been communicated to the beneficiaries.
The report Striking a Balance states that the requirement on authorizing officers to certify that claims are correct goes further than standard auditing practice and recommends that it should be replaced with a more flexible wording about the claims being in accordance with the contract.
Interest for delays caused by the Commission should be treated as eligible expenditure. (The Commission should automatically pay interest on late payment rather than the beneficiary having to request it)
It should be possible to use any interest generated by co-financing to offset interest payments caused by delays and or dedicate it to the project.
Beneficiaries should be able to track the status of payment claims

APPENDIX
THE NEEDS OF DIFFERENT TYPES OF CIVIL SOCIETY ORGANISATION

"Civil society" is a notoriously elastic term. In order to avoid the pitfall of assuming that "one size fits all" in this section we simply outline some of the main differences that have emerged from the interviews and literature search.

Large and small NGOs.

The organisations dealt with vary from massive international charities with thousands of members and a turn-over of many millions of euros and small, community groups or associations made up of a few local members and no regular source of income. We by no means wish to suggest that the larger organisations do not suffer from financial problems mentioned above. However, they are obviously far better equipped to internalise and deal with these problems than the small and medium sized organisation.

In particular, the larger NGOs can:

- Dedicate resources to constantly monitoring funding opportunities
- Achieve economies of scale in making applications. For example, with a one in five success rate, there must be at least five applications in the pipeline to be relatively sure of survival.
- Meet all the conditions for track record, technical and financial capacity, turnover and so on.
- Afford or obtain bank guarantees.
- Obtain loans to cover cash-flow problems caused by delays
- Achieve economies of scale and higher levels of expertise in financial and administrative management

Platforms and organisations on operating or core funding.

The main specific problems mentioned in our interviews were as follows:

- Annual grant cycles based on "ticking off" whether certain activities have been performed according to specification. Civil society organisations recommended rolling multiannual grants based on a longer term partnership with the Commission that was more strategically concerned with content
- The digressivity clause in the FR that states that EU funding should progressively be reduced as a proportion of the total cost of the services

NGOs receiving operating grants also share a series of problems with those who receive project funding:

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- Difficulties in raising match funding and the proportionality rule that means the size of the EU grant is automatically reduced if match funding is less than expected.
- Delays in annual approvals and payments causing financial costs and cash flow problems
- The insolvency trap whereby surpluses are automatically deducted from grants but losses are not taken into account.
- Excessive requirements for guarantees.
- The ineligibility of the financial costs caused by delays.
- The inability to use project funding to contribute to additional core costs when on core funding.
- Excessive accounting and reporting requirements

Sectoral groupings of NGOS.

NGOs operating in different fields such as the human rights, development or social fields also have a series of specific problems with regards to finance.

The Human Rights NGOs:

NGOs working in the human rights area probable face the most adverse conditions of all NGOs. Not only do they often work in poor countries but also, in order to safeguard human rights, they often have to enter into extremely critical and conflictive relationship with the public authorities of the countries concerned.

Most EU actions in the human rights field are financed through the various external budget lines included within the European Initiative for Democracy and Human Rights (EIDHR budget lines 19.04.02-05). It is estimated that around 78% of this initiative is carried out by non-state authorities[38]. This includes a micro-grant scheme involving amounts between 10.000-100.000 euros managed by local delegations of Europaid.

As mentioned in the main text, the most important specific financial problems mentioned by Human Rights NGOs are as follows:

- Firstly, in certain countries, human rights NG0s can be put in real risk if they are officially awarded an EU grant. The most famous example is that of Professor Ibrahim Saad Eddine, director of the American University in Cairo who was sentenced to 7 years hard labour for having received a grant from the EIDHR for promoting free elections without prior government approval. Fortunately, after considerable international pressure he was freed in December 2002 and acquitted the year after. But, the risk still looms large in many countries
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- Secondly, some countries deny human rights NGOs a legal status, thus making it impossible for them to apply for an EU grant. For example, the “Conseil National pour les Libertés en Tunisie“ (CNLT) is an association founded by 40 Tunisian intellectuals in 1998. It has 8 regional antennas which produce material on human rights for a Web site and an annual report. It is a recognised partner of prestigious international organisations like Human Rights Watch, Amnesty Inter national and so on. However, since 1998 the Tunisian government has refused to recognise their application for a legal status.

- It is also extremely dangerous if not impossible to obtain official receipts for work carried out. For example, a local printer who produced some material for CNLT was taken away by the police and interrogated in 2000. Under these conditions, NGOs ask who would be prepared to let their venue or provide an official receipt for the cost of a meeting room or other services. For these reasons, highly respected human rights organisations such as the Algerian League for the Defence of Human Rights and the Algerian Association of the Families of Disappeared People are unable to present formal accounts for the previous year

- For the reasons above and the fact that their members may face discrimination in employment, many human rights organisations are unable to provide any co-financing other than contributions in kind.

In order to overcome some of these problems the Commission has been experimenting with extending the more flexible system of micro-grants run by local delegations and passing the grant through recognised local foundations and/or European NGO’s. However, none of these solutions is regarded as entirely satisfactory.

Development NGOs.

Concord is the European NGO confederation for Relief and Development. It consists of 18 international networks and 20 national associations from the 25 Member States representing more than 1,500 individual NGO’s. Over the last few years, it has been one of the most active organisations campaigning for improvements in the way in which civil society organisations are

[38] As in 4 above.

financed at a European level and has set up a specific working group which has entered into detailed negotiations with the European Commission. Some of the evidence and recommendations produced by this working group refers mainly to problems faced by Development NGOs funded under the European Commission's external budget lines. However, many of their points are relevant for all NGO's.

The main EC development budget head affecting civil society organisation is the NGO co-financing line (21-02-03) which is exclusively open to European Development NGOs. The level of this line is around 200 million euros during the current financial period.

The budget line for decentralised cooperation (21-02-13) is also extremely important but much smaller (an average 4 million euros in payments over 2002-4). However, it permits the Commission to directly finance Southern NGOs rather than going through Northern organisations. Non State Agencies also receive between 4% (MEDA) and 26% of the European Commission's geographical budget lines[39]

The main funding problems that affect development NGOs more than other NGOs are as follows:

- *Financial guarantees* are required which are disproportionate compared to the actual risk.
- *Any purchases made by the projects are subject are subject to rules of origin (FR 168).* These create yet another administrative burden and above all contradict the principle of obtaining value for money. In some countries and cases, it is simply impossible to meet the rules of origin and this can cause unnecessary delays while waiting for an explicit derogation from the Commission.
- *The method for calculating exchange rates ignores transactions between local partners and contradicts international accounting standards.* This can result in NGOs receiving less than budgeted and facing serious difficulties in completing the project
- *Specific bank accounts in euros are required for each project* thus adding unnecessarily to costs and bureaucracy.
- It is necessary to provide *proof that the ownership* of all equipment, vehicles and supplies have been transferred to local actors by the end of the action.
- *The contracts* are often not written in the language of the developing countries leading to misinterpretations and errors.
- *Delayed payments* causing suffering at local partners level and causing an extra burden on development NGOs
- *Extremely heavy accounting and reporting obligations.* Which local partners are struggling with and which causes them to spend more and more time at a desk filling in forms and papers and leaving less and less time to actually carry out the intended activity

Social NGOs

Social NGOs by definition cover a vast and varied field of activity including poverty, social exclusion, training, insertion into the labour market, sexual and racial discrimination, local development, support for self-employment and so on. A high proportion of the direct budget lines that most concern them are managed by DG Employment and Social Affairs but they are also concerned with programmes run by DG Education and Culture, DG Regio, Health and Consumer Protection, DG Agri and so on. So in general, the level of dispersal is greater than for the external budget lines.

However, the main difference with respect to the NGOs financed by external budget lines is that by far the lion's share of funding comes from the Community Initiatives and, above all, from the Structural Funds managed in partnership with the Member States. In these cases, calls for tender take place at national or regional levels and there are an enormous variety of different financial procedures.

As a result, we have been unable to find any common position papers produced by social NGOs (or by environmental and cultural NGOs, for that matter). At present, all these sectors,

[39] 3.9% MEDA, 5% ACP, 12% TACIS, 13% CARDS, 23% Asia, 26% Latin America. Total 476. out of 5,444.3 million (8.7%). Hearing on EU Budget and NGOs. As above.

and particularly the first two have paid more attention to the content of the structural funds (e.g. whether they are narrowly restricted to the labour market or include other policies related to social inclusion) and, above all, to the mechanisms allowing NGO's to participate in their design, implementation, monitoring and evaluation.

Social NGOs also place a major emphasis on the problems of very small local NGO's as opposed to those of the larger national organisations and networks. It is strongly argued that the former require a separate treatment.

Environmental NGOs

On the one hand, environmental NGOs are concerned with budget lines specifically for improving and/or disseminating information about environmental issues[40] But at a broader level, environmental NGOs tend to be particularly vocal about the general impact EU policies.

According to prominent environmental NGOs, the main problems they face in the different stages of EU programming are seen as being that: [41]

- NGOs, in many Member States, are not represented on the committees and working groups responsible for programming, project selection, monitoring or evaluation
- The rules for interpreting the partnership principle are too vague and interpreted differently in each MS
- The procedures for selecting and involving NGO representatives are often arbitrary.
- NGOs often have an inferior status, when they are present
- There is a lack of information about the programming process (timetable, rules, strategy)
- The rules and reports often changed after consultations are closed.
- There is often a lack of transparency in the criteria for project selection
- Public consultations are too few and too late. Access to information is poor
- NGOs lack the capacity to participate fully

Cultural NGO's.

"Cultural" NGOs also cross a number of frontiers and subject areas. In the strictest sense, there are NGOs concerned with the "arts" such as the 65 members the European Forum for the Arts and Heritage[42]. But on the other hand, DG EAC also manages a series of educational programmes for spreading European "culture" such as Erasmus Mundus, Leonardo da Vinci, Socrates". These programmes offer interesting insights, among other things, because they show how the EU can handle very large numbers of small grants based on standard costings. (E.g. per exchange). Erasmus for example has financed exchanges among huge numbers of students since its inception Finally, DG EAC not only handles the youth programme but also the specific programmes for "promoting active citizenship".[43]

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[40] Such as the Community Action Programme promoting NGOs active in the field of environmental protection (budget line 07-03-02 with 6.5 million pa and LIFE 07-03-03/4 with 150 million pa).

[41] 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

[42] These are often particularly concerned with direct budget lines managed by DG Education and Culture such as the framework programme in support of culture (15.04.02.01 with annual budget of 32.9 meuro, MediaPlus (15.05.01.02 – 75.2 million), Media Training (15.05.01.02 – 9 meuro pa), citizens information by the media (16.02.02 – 8.16 meuros) and so on.

[43] These cover a range of programmes such as town twinning (15.06.01.07) mainly affecting local authorities and support for "Associations and Federations of European Interest" (15.06.01.04 – 1.5 meuro p.a.) and "European Think Tanks and organisations advancing the idea of European" (15.06.01.05 –0.5 meuro p.a. and 15.06.01.03 - 2.4 meuro p.a.). The last two are used to finance many of the European Platforms of NGOs

At the consultation Forum on the “Future Action Programme to Promote Active Citizenship organized by DG EAC[44] participants referred to a series of problems, most of which are shared with other NGOs:

- The unnecessary complexity of many procedures when simpler and/or more effective mechanisms already exist such as block grants, the two stage selection procedure used in Socrates and multiannual programming
- The fact that excessive rates of co-financing and the inability to use contributions in kind excluded many smaller NGOs
- The general need for a shift in emphasis towards evaluating results and impact rather than just how money is spent
- The need for finding a better balance between continuity and innovation
- The need for more transparent criteria for funding think tanks and networks. Suggestions included the degree of representativeness, track record in key thematic areas, networking capacity and the ability to act as an interface with EU citizens.

[44] Consultation Forum on the Future Action Programme to Promote Active Citizenship. 3-4 February 2005 Brussels.