European governance: tripartite contracts and agreements between Community, States and regional authorities

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PURPOSE : to outline possibilities for the establishment of tripartite contracts and agreements between the Community, the States and local authorities. CONTENT : the publication of the White Paper on European Governance in 2001 introduced the idea of tripartite contracts, to be concluded between the Member States, the territorial authorities designated by them and the Commission. This Communication in as examination of what form such tripartite contracts and agreements should take. Greater EU involvement in regional policy and environmental legislation has frequently led to confusion over which actor in a chain of legislative and regulatory events should be involved in what. Many Member States and local authorities have requested greater clarification in order to introduce a culture of enhanced flexibility, efficiency and successful outcomes. This Communication on tripartite contracts and agreements is an answer to such requests. The Commission proposes that tripartite contracts and agreements can be defined as: - target-based tripartite contracts to describe contracts concluded between the European Community - represented by the Commission - a Member State and regional and local authorities in direct application of binding secondary Community law (regulations, directive or decisions; and - target-based tripartite agreements to describe agreements concluded between the Commission, A Member State and regional and local authorities outside a binding Community framework. In principle, both such contracts and agreements must be subject to a general obligation of compatibility with the Treaties and in particular, they may under no circumstances create or sustain obstacles to intra-Community trade. Nor must they be incompatible with Member States' constitutions. They can be justified when there is a proven case of enhanced political benefits, efficiency gains, the involvement and participation of regional and/or local authorities and if they can lead to a speedier performance. Such tripartite contracts would clearly lend themselves in particular to the EU's regional and environmental policies. The Commission does not plan to propose a modification of the existing provisions governing the implementation of the Structural Funds, considering instead that the existing partnerships should be allowed to run their course. In the case of tripartite contracts between the Community (represented by the Commission) - a Member State and the regional/local authorities designated by them an enabling clause will be included in the contracts. Also included will be wording recalling that the Member State alone will retain responsibility for due performance. Failure to do so could lead to possible legal action under Article 226 of the Treaty. Lastly, any one of the future contracting parties may take the initiative to establish such tripartite relations. In the first instance, the Commission plans to launch pilot target-based tripartite agreements. Only following an assessment of these target-based tripartite agreements will the Commission consider the possibility of target-based tripartite contracts.