



COMMISSION OF THE EUROPEAN COMMUNITIES

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2001/0226 (COD)

Amended proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Council Regulation (EC) No 2236/95 laying down general rules for the granting of Community financial aid in the field of trans-European networks**

(submitted by the Commission pursuant to Article 250(2) of the EC Treaty)

## **EXPLANATORY MEMORANDUM**

During the Plenary Session of 2 July 2002, the European Parliament approved, subject to a number of amendments, the Commission's proposal for a Regulation of the European Parliament and Council amending Council Regulation (EC) No 2236/95 laying down general rules for the granting of Community financial aid in the field of trans-European networks. The Economic and Social Committee also supported the initiative, whereas the Committee of Regions has not given opinion.

The European Parliament agrees in essence with the main elements of the Commission's proposal. However, the European Parliament has formulated a certain number of amendments, on the basis of which the Commission proposes to introduce some new elements to its original text.

The European Commission forwards this revised proposal in order to facilitate the process of achieving the objectives outlined at the European Council of Barcelona<sup>1</sup>.

### **1. AMENDMENTS ACCEPTED/PARTLY ACCEPTED**

The Commission is prepared to incorporate those suggestions and amendments (or part of amendments) aiming at strengthening certain elements of the Regulation and clarifying the text of its proposal.

#### **1.1. Recitals**

The following elements have been incorporated:

- a reference to accumulated backlog on TEN-Transport (EP amendment n° 1);
- a reference on the priority to be given in financing TEN-Energy (EP amendment n°3);
- a reference on Public-Private Partnerships as a financing tool (EP amendment n°4);
- the reference on the compatibility of financing with the objectives of sustainable mobility (EP amendment n° 4);
- a reference on delays that face projects on the Alps and the Pyrénées (EP amendment n° 5);
- a specific reference on the financing of GALILEO (EP amendment n°6);

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<sup>1</sup> The European Council requests the Council and the European Parliament to adopt by December 2002, the revision of the Guidelines and the accompanying financial rules on the trans-European networks (TEN).

- a reference on the needs to increase the transport TEN budget appropriation to cope with the challenges of the enlargement (part of EP amendment n°7);

**1.2. Article 1 (modifying article 5, paragraph 3 and concerning the scope of the proposal)**

- -a more explicit reference on the elimination of the bottlenecks is made (EP amendment n°8);
- - a new reference on safety is introduced (EP amendment n°8);
- the point (c) relating to satellite navigation systems is completed by the full reference of the Decision 1692/96, as for the other points (EP amendments n° 8 and 13).

**1.3. Article 1a (new – modifying Art. 13)**

- introduction of stricter rules in financing projects to comply with the objective of sound and efficient management (EP amendment n°9);

**1.4. Article 1 para 2 (modifying Art. 17 on comitology)**

- the Commission accepts the proposal of the EP to set up an advisory committee instead of a management one (EP amendment n°10);

**1.5. Article 1 para 3 (modifying Art. 18 relating the budgetary issues )**

- a new reference on project assessment and concerning the use of funds is made (EP amendment n°11);

**2. AMENDMENTS NOT ACCEPTED**

The Commission has not accepted a certain number of amendments (or parts of amendments) to the text proposed by the European Parliament, in particular those modifying the scope of the proposal or prejudging its right of initiative:

- the amendment requesting to assess the planning procedure into force in the Member States as well as the nature of the TEN-T projects cannot be accepted. Due to the very different nature of the projects, such assessment would be almost impossible to carry out (EP amendment n°2).
- the amendment relating to the eligibility conditions for energy projects proceeds from a wrong interpretation of the Regulation into force, as the development phase (before the construction phase) can already benefit – according to the present regulation - from a maximum of 50% of support, and therefore is not directly concerned by the present proposal (part of EP amendment n°3).
- the first three paragraphs of the EP amendment n°7 relating to support monitoring by the EP are not acceptable. The Indicative Multiannual

Programme (MIP) transport TEN budget is foreseen to be revised in 2003. Until then, there will be no specific proposal on new programming within the transport TENs envelope. As from 2003, and given the availability of additional funds for the support of cross-border projects with candidate countries outside the MIP (through the annual budgetary procedure), the European Parliament will be consulted as usual prior to the adoption of the Commission Decision in the framework of its right of scrutiny. The second and the third added paragraphs cannot be accepted either. The content relates to “multi-annual programmes”, however the TEN-T financial Regulation is not included in such category, as the financial decisions are based on annual commitments.

- Regarding the two amendments (part of EP amendments n°8 and 13) concerning Art 1. (scope), part of the requested modification cannot be accepted, in particular the proposal to extend the scope to roads and inland waterway intermodality (the definition is unclear and could open the scope of the proposal to many projects) and the inclusion of TEN-Telecoms, as they modify the essence of the Commission proposal.

- As regards comitology, according to Council decision on comitology rules it is not possible to invite EIB and acceding countries to the committee meetings. Therefore such a provision cannot be accepted (part of EP amendment n°10). This will not prevent to invite the EIB and acceding countries if specific provisions are proposed in the framework of the internal rules of the committee.

- Finally, the setting of inflexible rules leading to cancellation of TEN-T support, if funds are not used within a certain number of years is not always compatible with the life cycle of infrastructure projects. Although the Commission supports sound and efficient management, it also believes that some flexibility should be given to projects as delays can also derive from external causes (part of EP amendment n°11).

Within this context, the Commission has modified its proposal accordingly.

Amended proposal for a <sup>2</sup>

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Council Regulation (EC) No 2236/95 laying down general rules for the granting of Community financial aid in the field of trans-European networks**

**(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the first paragraph of Article 156 thereof,

Having regard to the proposal from the Commission<sup>3</sup>,

Having regard to the opinion of the Economic and Social Committee<sup>4</sup>,

Having regard to the opinion of the Committee of the Regions<sup>5</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty<sup>6</sup>,

Whereas:

- (1) Traffic growth over the past decade – in particular heavy lorry traffic – has led to increased congestion and pollution throughout the territory of the Community. The current capacity of the road network as well as of the rail infrastructure is far from optimal and the weakest points are the cross-border sections. The major delays in implementation of the trans-European transport network relate to cross-border rail projects requiring the construction of infrastructure such as tunnels or bridges of significant length. Owing to these constraints, the financial viability of such projects is often extremely low.
- (1a) The accumulated backlog for trans-European transport networks amounts a significant share of overall project support. Major problems remain to be solved in the 14 priority projects approved at the Essen European Council, for which an increase in the level of Community co-financing is deemed necessary.

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<sup>2</sup> Compared with the proposal for amending Regulation 2236/95 contained in document COM(2002)134 only the text underlined has changed.

<sup>3</sup> OJ C...

<sup>4</sup> OJ C...

<sup>5</sup> OJ C...

<sup>6</sup> OJ C...

- (2) Cross-border connections between energy networks are important for ensuring smooth operation of the internal market, security of supply and optimum use of energy infrastructure. Priority projects on the energy networks, which are necessary in the interests of the European economy but unprofitable in business terms and which do not distort competition between enterprises, should therefore also qualify for higher financial aid. This aid is in respect of priority projects on the energy networks.
- (3) Provision should be made for an increased level of support of up to 20% of total investment cost for projects concerning cross-border bottlenecks and projects at borders with candidate countries which contribute strongly to the improvement of the trans-European network, as established by Decision No 1692/96/EC of the European Parliament and of the Council of 23 July 1996 on Community guidelines for the development of the trans-European transport network<sup>7</sup>.
- (4) Since cross-border projects with candidate countries may prove difficult to implement due to financial constraints, additional funding, including private capital, should be made available for the most urgently needed improvements related to transport infrastructure at borders with candidate countries. The potential economic viability, and the social and economic added value of the projects and their compatibility with the objectives of sustainable mobility should be assessed. The funds devoted to these specific projects should cover the whole financing period 2003-2006 irrespective of the date of accession of the new Member States.
- (4b) The major delays in the implementation of trans-European transport network projects concern cross-border rail projects located in areas characterised by natural barriers such as the Alps and the Pyrenees.
- (4c) The Transport Council reached an agreement on 26 March 2002 on the legal aspects of the GALILEO Joint Undertaking<sup>8</sup>, whereby an amount of EUR 450 million is to be released for the financing of the development phase and allocation to the Joint Undertaking.
- (5) The provisions of Council Regulation (EC) No 2236/95<sup>9</sup> should be adapted to take account of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>10</sup>.
- (6) In order to do justice to the objectives of trans-European transport networks and the transport policy challenges of enlargement, a substantial increase in

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<sup>7</sup> OJ L 228, 9.9.1996, p. 1; Decision as amended by Decision No 1346/2001/EC (OJ L 185, 6.7.2001, p. 1).

<sup>8</sup> OJ L138, 28.5.2002, p.1 Council Regulation (EC) No 876/2002 of 21 May 2002.

<sup>9</sup> OJ L 228, 23.9.1995, p. 1; Regulation as amended by Regulation (EC) No 1655/1999 of the European Parliament and of the Council (OJ L 197, 29.7.1999, p. 1).

<sup>10</sup> OJ L 184, 17.7.1999, p. 23.

appropriations for trans-European transport networks will be required in the next financial perspective~~In particular,~~ the financial framework for the implementation of Regulation (EC) No 2236/95 should be increased in order to fund the most urgently needed improvements related to transport infrastructure at borders with candidate countries.

(7) Regulation (EC) No 2236/95 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

#### *Article 1*

Regulation (EC) No 2236/95 is amended as follows:

(1) In Article 5, paragraph 3 is replaced by the following:

"3. Regardless of the form of intervention chosen, the total amount of Community aid under this Regulation shall not exceed 10% of the total investment cost. However, the total amount of Community aid may exceptionally reach 20% of the total investment cost in the following cases:

- (a) projects ~~which concern~~ to eliminate cross-border rail bottlenecks and/or missing links located in areas where natural barriers represent obstacles to the free circulation of goods and passengers, which promote safety, and which strongly contribute to the reduction of imbalances between modes of transport and to the improvement of rail transport within the trans-European transport network as established by Decision No 1692/96/EC of the European Parliament and of the Council.<sup>\*</sup>;
- (b) other projects ~~which concern~~ to eliminate bottlenecks at borders with candidate countries where added value is particularly high in terms of safety improvement and congestion reduction within the trans-European transport network as established by the Decision No 1692/96/EC;
- (c) projects concerning satellite positioning and navigation systems as provided for in Article 17 of Decision No 1692/96/EC, and;
- (d) priority projects on the energy networks".

(2) In Article 13, the following paragraph 4 is added:

"4. - If, within a period/maximum of ten years following the award of financial assistance for an operation, the said action has not been completed, the Commission shall demand reimbursement of the assistance awarded.

\* OJ L 228, 9.9.1996, p. 1."

- (3) Article 17 is replaced by the following:

*"Article 17*

*Committee*

1. The Commission shall be assisted by a committee composed of representatives of the Member States and chaired by the representative of the Commission.
2. Where reference is made to the procedure specified in this Article, ~~the management procedure laid down in Article 4~~ the advisory procedure laid down in Article 3 of Council Decision 1999/468/EC\* shall apply, in compliance with Article 7 and Article 8 thereof.
3. The period provided for in Article 4(3) of Decision 1999/468/EC shall be two months.

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\* OJ L 184, 17.7.1999, p. 23."

- (4) In Article 18, the first paragraph is replaced by the following:

"The financial framework for the implementation of this Regulation for the period 2000 to 2006 shall be EUR 4700 million."

A new paragraph 2 is added

The allocation of funds shall be linked to the qualitative and quantitative level of implementation.

*Article 2*

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the European Parliament*

*The President*

*For the Council*

*The President*