



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 04.12.1998  
COM(1998) 723 final

98/ 0101 (SYN)

Amended proposal for a

COUNCIL REGULATION (EC)

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

(Com (98) 172 final-98/0101 (SYN))

(presented by the Commission pursuant to Article 189 a (2)  
of the EC-Treaty)

## Explanatory memorandum

### I

- (1) The Commission put forward to the Council and the Parliament on 18 March 1998 a proposal for amending the (EC) Council Regulation n°2236/95 laying down general rules for granting of Community financial aid in the field of trans-European networks (COM (98) 172 final).
- (2) The European Parliament delivered its opinion on the proposal at its first reading in the plenary session in Strasbourg on 19 November 1998. It has adopted 27 amendments.
- (3) The Commission can accept 18 amendments out of the 27 adopted by the Parliament. 10 amendments can be accepted in full and included as such in the Commission proposal (n°2, 3, 9, 10, 12, 15, 16, 18, 19, 22). They will improve the initial text and make it more precise. 8 amendments are acceptable in principle (n°1, 4, 6, 7, 8, 14, 17, 20) and have been introduced either with slight drafting changes or in a provision different from the one proposed by the EP. The remaining 9 amendments proposed by the European Parliament are not acceptable to the Commission.

On the following pages are the changes described in detail. First are the changes which the Commission can accept in full or in principle, followed by those that the Commission can not accept.

- (4) The opinion of the Economic and Social committee delivered on 9 September has also been taken into consideration, at least partially, via the EP amendments.

### II

The following amendments have been accepted by the Commission :

#### Amendment 1 (recital 2a)

Amendment 1 stresses the importance of granting increased aid to applicant countries as well as the need for co-ordination with PHARE and ISPA instruments. This amendment deals with the same issue as amendment 2 and its principle has been introduced in recital 3. The coordination issue is already covered in the original recitals.

#### Amendment 2 (recital 3)

The addition of "or to links with third countries", highlights the importance of granting a higher level of support to the projects which are connecting the infrastructure in the current European Union to the infrastructure networks in the applicant countries.

Amendment 3 (recital 4a new)

Amendment 3 requires the application for support to include a detailed breakdown of the financial sources of finance.

Amendment 4 (recital 4b new)

This amendment aims to take into consideration the effects at regional, national and European level of a project eligible for Community support. However, this is not an additional criterion but rather further information required for assessment of applications.

Amendment 6 (recital 8a new)

Amendment 6 reinforces and details the scope for the Community to use part of the TEN-budget for risk-capital participation. This new way of using part of the TEN-funds is a very important element in attracting private investment into projects and to motivate the private sector to engage in public-private partnerships. It has been partially introduced in the existing recital 2 to complete the existing text.

Amendment 7 (recital 10)

Amendment 7 adds to the original Commission proposal that to raise the profile of European Community subsidies, the regulation should specify how the beneficiary should publicise the Community contribution. The analogy with structural funds cannot be followed, as it would be disproportionate to the TEN support.

Amendment 8 (art. 4.1.a in reg. 2236/95)

This specifies that only in exceptional cases and based on a proposal by the Commission, and where appropriate with the consent of the member states, Community participation may exceed the normal limit of 50%.

Amendment 9 (art. 4.1.b in reg. 2236/95)

As concerns the duration of subsidies of loan interest, it shall as a general rule not exceed seven years. This is in line with the Commission opinion.

Amendment 10 (art. 4.1.e in reg. 2236/95)

Amendment 10 specifies that if part of the TEN-budget is used for risk-capital participation there needs to be a substantial private sector investment following the Community's participation.

Amendment 12 (art. 5.3 in reg. 2236/95)

This specifies that especially for projects linking the Community with third-countries, Community aid may reach 20% of the total investment cost. (see amendment 2).

Amendment 14 (art. 9.1a third indent in reg. 2236/95) new

Amendment 14 states that estimates of external costs and of induced traffic volumes shall be submitted, where appropriate, to the Commission, together with other economic analyses such as cost-benefit analyses and financial profitability analyses.

Amendment 15 (art. 9.1a fifth indent in reg. 2236/95) new

This states that the information given in the application forms must also contain a description of the project's consistency with regional development plan and foreseeable socio-economic effects.

Amendment 16 (art. 9.1a last indent in reg. 2236/95) new

This amendment states that in the financial plan which is part of the application form it must clearly be stated how much of the financing comes from regional, local and private sources.

Amendment 17 (art. 9.2. in reg. 2236/95)

The applicant for Community support shall supply the Commission any other relevant additional information which the Commission requires, such as the hypotheses on which the cost/benefit analysis is based. This amendment makes the existing text, more explicit.

Amendment 18 (art. 15.4. in reg. 2236/95)

Amendment 18 states that the Commission and the Member States shall evaluate the effects of the programme or projects including the environmental impact. This evaluation should also include a discussion on the possible side effects, which have appeared during and after the realisation of the project.

Amendment 19 (art. 16.2. in reg. 2236/95)

This requires there to be on all buildings constructed with support under this regulation and accessible to the public, a permanent commemorative plaque with the European emblem and a reference to co-financing by the Community.

Amendment 20 (art. 16 in reg. 2236/95), new

Amendment 20 says that the Commission shall once a year submit to the European Parliament a report on the substance and implementation of the current multi annual programme (MIP). This could be covered by the annual report on TENs to the EP.

Amendment 22 (art. 18 in reg. 2236/95), new

This includes a reference amount of 5500 million ECU for the implementation of this regulation in the period 2000-2006, which is consistent with the financial statement attached to the original Commission proposal.

III

The following amendments are not acceptable to Commission and therefore are not included in the modified proposal.

Amendment 5 (recital 8)

Amendment 5 says that the Commission should co-ordinate funding TEN infrastructure with the other main Community financial instruments, and that the co-ordination obligations of the Member states should be set out. The Commission considers it unnecessary to stipulate in the regulation itself the internal working procedures of the Commission. The provision on co-ordination obligations for the Member States has not been adopted in the corresponding

article.

Amendment 11 (art. 4.2.a in reg. 2236/95), new

It is here mentioned that at least 55% of the funds available should go to railways, a maximum of 25% to roads and a maximum of 15% to traffic management projects. The Commission rejects this proposal, as financial needs by modes can not be foreseen in advance national priorities put forward by Member States. It could also lead to poor management of the available funds.

Amendment 13 (art. 6.1a in reg. 2236/95), new

Here again restrictions are imposed on the way the budget is to be used. The amendment stipulates that no more than 50% of the Community subsidies may be used for priority projects, and that the rest should be used for other projects. The amendment also mentions annex 1 and 3 in decision No. 1692/96/EC, which are the guidelines for transport; the financial regulation concerns all three TEN sectors.

Amendment 21 (art. 17.3. and 17.4. in reg. 2236/95), new

This proposes including a new committee procedure in the regulation. The Commission can not accept this proposal, as it is a horizontal issue to be dealt with separately. The consultative committee procedure proposed does not conform to the procedure in Comitology Decision 87/373 of the Council and so can not be used unless and until this decision is amended by the Council for which a separate proposal by the Commission has been put forward this year.

Amendment 23 (art. 19 in reg. 2236/95), new

In this amendment it is proposed that the Council shall examine whether or not this regulation may be extended beyond the period specified in article 18 (2000-2006). The Commission rejects this amendment because such a provision is unnecessary. The regulation will automatically apply after 2006 if it has not been revised.

Amendment 24 (art. 16.1a in reg. 2236/95), new

It proposes that the Commission shall draw up an environmental impact statement on each major project financed with Community aid. It falls under the responsibility of the Member States to ensure that projects comply with Community rules.

Amendment 25 (art.4.3 in reg.2236/95, new)

This amendment develops the same idea on private financing as in the proposal of the Commission. The existing proposal is coherent with the provision of the Cohesion Fund, and leaves more flexibility for the Commission to promote recourse to private financing.

Amendment 26 (art.14 in reg.2236/95)

This amendment specifies the financial instruments and policies with which co-ordination is needed. They are all already covered by the existing text

"Community financial instruments". There is no need to go into details in the text of the regulation.

Amendment 30 (art.15.2 in reg.2236/95)

This amendment imposes a systematic evaluation of individual projects by both MS and Commission. The detailed evaluation of specific projects falls under the responsibility of the MS, and is coherent with the subsidiarity principle. Global and overall evaluation of the TEN programme is done by the Commission.

Amended proposal for a  
COUNCIL REGULATION (EC)

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 (Com (98) 172 final-98/0101  
(SYN))

**Initial proposal**

(2) Whereas Community financial participation provided for under that Regulation may exceed the limit of 50% for studies undertaken on the initiative of the Commission; whereas it is necessary to facilitate the financing of certain projects by including, among the possible forms of aid, contributions to the formation of risk capital; whereas it is desirable to use the financial resources provided under Regulation (EC) No 2236/95 in order to maximize the contribution from private finance;

(3) Whereas provision should be made so that certain projects related to more than one Member State, or contributing strongly to the broader trans-European interest, including those with an important environmental dimension, may receive an increased level of support;

**Modified proposal**

Recital 2

(2) Whereas Community financial participation provided for under that Regulation may exceed the limit of 50% for studies undertaken on the initiative of the Commission; whereas in order to allow the Community to act as a catalyst for private sector involvement in the financing of TENs, risk-capital as a form of aid under this regulation shall provide a basis for future Community action to support public-private partnership TEN projects; whereas it is desirable to use the financial resources provided under Regulation (EC) No 2236/95 in order to maximize the contribution from private finance;

Recital 3

(3) Whereas provision should be made so that certain projects related to more than one Member State, or to links with third countries, in particular relevant applicant countries, or contributing strongly to the broader trans-European interest, including those with very important environmental dimension, may receive an increased level of support

Recital 4a

4a. Whereas in the application for financial support for a project, a detailed breakdown of estimates is needed concerning the sources of contributions from the Community, from national, regional and local government bodies, as well as the extent of financial contributions from the private sector

Recital 4b

4b. Whereas the effects at regional, national and European level of the projects eligible for Community subsidies under this Regulation must be included as an additional information required

(10) Whereas it is necessary to specify the manner in which beneficiaries should publicize Community contributions;

Article 4

Forms of aid

1. Community aid for projects may take one or several of the following forms :

(a) co-financing of studies related to projects, including preparatory, feasibility and evaluation studies, and other technical support measures for these studies.

Community participation may in general not exceed 50% of the total cost of a study

In exceptional cases, at the initiative of the Commission and with the consent of the Member States concerned, Community participation may exceed the limit of 50%, in particular for studies undertaken at the initiative of the Commission;

(b) subsidies of the interest on loans granted by the European Investment Bank or other public or private financial bodies

(c) contributions towards fees for guarantees for loans from the European Investment Fund or private financial bodies;

(d) direct grants to investments in duly justified cases;

(e) grants or risk-capital participation, for investment funds or comparable financial undertakings with a priority focus on providing risk capital for trans-European network projects;

for the assessment of applications

Recital 10

10. Whereas in order to increase the visibility of European Community subsidies it is necessary to specify the manner in which beneficiaries should publicise Community contributions;

HAS ADOPTED THIS REGULATION:

Article 4

Forms of aid

(a) Co-financing of studies related to projects, including preparatory, feasibility and evaluation studies, and other technical support measures for these studies.

Community participation may in general not exceed 50% of the total cost of a study.

In exceptional cases, upon a relevant initiative by the Commission and, where appropriate, with the consent of the Member States concerned, Community participation may exceed the limit of 50%.

(b) subsidies of the interest on loans granted by the European Investment Bank or other public or private financial bodies. As a general rule, the duration of such a subsidy shall not exceed seven years

(c) contributions towards fees for guarantees for loans from the European Investment Fund or private financial bodies;

(d) direct grants to investments in duly justified cases;

(e) grants or risk-capital participation, for investment funds or comparable financial undertakings with a priority focus on providing risk capital for trans-European network projects and involving substantial private sector



3. *The following paragraph is added to article 5(3)*

Article 5

3. However in the case of projects related to more than one Member State, or contributing strongly to the broader trans-European interest, including those having an important environmental dimension, the total amount of Community aid under this Regulation may reach 20% of the total investment cost.

investment:

*The following sub-paragraph is added to article 5*

Article 5

3. However in the case of projects related to more than one Member State, or links with third-countries or contributing strongly to the broader trans-European interest, including those having an important environmental dimension, the total amount of Community aid under this Regulation may reach 20% of the total investment cost.

Article 9

Information required for the assessment and identification of applications

1. Each application for financial aid shall include all the information necessary for the examination of the project according to Articles 5, 6 and 7, and in particular:

(a) if the application concerns a project

- the body responsible for carrying out the project,
- a description of the project concerned and the type of Community aid envisaged,
- the results of the cost/benefit analysis, including the results of the potential economic viability, of the financial profitability analysis, and where appropriate considerations of externalities and of induced traffic,
- the position of the project, according to the guidelines, in the field of transport, on the axes and nodes,
- consistency with regional planning, and the foreseeable socio-economic effects,
- a summary description of the environmental impact, based on the assessments carried out in accordance with Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment,
- a statement that alternative possibilities of public and private financing, including the European Investment Fund and the European Investment

Bank, have been examined,

- a financial plan listing, in euros or in national currency, all the components of the financial package, including the financial aid requested from the Community, in its different forms as mentioned in Article 4, and from local, regional or national government bodies, as well as from private sources, and the aid already granted

b) if the application relates to a study, the study's objective and purpose and the methods and techniques envisaged;

c) a provisional time-table of work;

d) a description of the control measures to be operated by the Member State concerned over the use of the funds requested.

2. Applicants shall supply the Commission with any relevant additional information which it requires, such as the hypothesis on which cost/benefit analysis is based.

3. The Commission may seek any specialist advice it requires in order to assess an application, including the opinion of the European Investment Bank.

#### Article 15

4. The Commission and the Member States shall assess the manner in which the projects and the programmes have been carried out and evaluate the impact of their implementation, in order to assess whether the original objectives can be, or have been, achieved. This evaluation shall, *inter alia*, cover the impact of projects on the environment, regard being had to the Community laws in force. The Commission may also require the beneficiary to provide a specific evaluation on projects or groups of projects supported under this Regulation, or to provide it with the information and the assistance required to evaluate such projects.

12. *The second sentence of article 16(2) is replaced by the following*

#### Article 16

#### Article 15

4. The Commission and the Member States shall assess the manner in which the projects and programmes have been carried out and evaluate the impact of their implementation, in order to assess whether the original objectives can be, or have been, achieved. This evaluation shall, *inter alia*, cover the impact of projects on the environment, regard being had to the Community laws in force This evaluation should also discuss possible side effects which have appeared during and after the realisation of the project. The Commission may also require the beneficiary to provide a specific evaluation on projects or groups supported under this Regulation, or to provide it with the information and the assistance required to evaluate such projects.

*Article 16 is replaced by the following :*

#### Article 16

Information and publicity

1. The Commission shall submit an annual report on the activities carried out under this regulation to the European Parliament, the Council, the Economic and Social committee and to the Committee of the Regions for their appraisal. This report shall contain an evaluation of the results achieved with Community aid in different fields of application, in terms of original objectives, as well as a chapter on the substance and implementation of current multiannual programmes, especially an account of the revisions provided in article 5a.

2. They shall ensure, in particular in the case of infrastructure works; that directly visible display panels are erected bearing the Community logo and the expression "Trans-European networks". In the case of studies and/or any other documents concerning a project, they shall ensure that they carry the Community logo.

2. They shall ensure, in particular in the case of infrastructure works, that directly visible display panels are erected bearing the Community logo and the expressions "Trans-European networks". At all facilities accessible to the public they shall ensure the affixing of permanent commemorative plaques with the European emblem and a reference to cofinancing by the Community. In the case of studies and/or any other documents concerning a project, they shall ensure that they carry the Community logo.

*Article 18 is replaced by the following*

Article 18

Budgetary resources

The amount serving as financial reference for implementation of this regulation shall amount to ECU 5500 million for the period 2000-2006. The annual appropriations shall be approved by the budgetary authority within the limits set by the Financial Perspective.

ISSN 0254-1475

COM(98) 723 final

# DOCUMENTS

EN

07 10 06 11

---

Catalogue number : CB-CO-98-722-EN-C

---

Office for Official Publications of the European Communities

L-2985 Luxembourg

12