



COMMISSION OF THE EUROPEAN COMMUNITIES

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2004/0154 (COD)

**COMMUNICATION FROM THE COMMISSION  
TO THE EUROPEAN PARLIAMENT**

**pursuant to the second subparagraph of Article 251(2) of the EC Treaty**

**concerning the**

**common position adopted by the Council with a view to the adoption of a Regulation of the European Parliament and of the Council laying down general rules for the granting of Community financial aid in the field of trans-European transport and energy networks**

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**1. BACKGROUND**

Date of transmission of the Commission proposal to the EP and the Council (COM(2004) 475 –2004/0154(COD))	14.7.2004
Date of the opinion of the European Economic and Social Committee:	10.3.2005
Date of the opinion of the European Parliament, first reading:	26.10.2005
Date of transmission of the amended Commission proposal to the EP and the Council (COM(2006) 245 – 2004/0154 (COD)):	24.5.2006
Date of adoption of the common position:	22.3.2007

**2. OBJECTIVE OF THE COMMISSION PROPOSAL**

On 14 July 2004, the Commission adopted a proposal for a Regulation of the European Parliament and of the Council laying down general rules for the granting of Community financial aid in the field of trans-European transport and energy networks, which is a proposal to succeed Council Regulation (EC) No 2236/95.

The objective of the Regulation is to define the conditions, means and the procedures for the granting of Community aid to projects of common interest in the field of trans-European transport and energy networks on the basis of article 155, paragraph 1 of the Treaty.

The original Commission proposal was amended on 24 May 2006, mainly to take account of the inter-institutional agreement on the Community's financial framework for the period 2007-2013 of April 2006.

The budgetary resources set out in the Commission's initial proposal significantly exceed the amounts established in the financial framework 2007-2013 for TENs both in the fields of transport and energy. The revision of the initial "TEN-Regulation" proposal, therefore, results from the need to adapt the regulation to the budgetary resources confirmed in April 2006.

The resources established in the financial framework represent only 40% of the amount initially proposed for the transport sector, and 45% of that proposed for the energy sector. This also makes it necessary to adapt the procedures for the granting of aid (in particular, the procedures for project selection and rates of support).

In addition to this, part of the amendments proposed by the European Parliament in its first reading was taken into account in the revised proposal. Finally, a number of drafting improvements were introduced into the proposal.

### **3. COMMENTS ON THE COMMON POSITION**

The Council adopted its common position by a qualified majority on 22.3.2007. This text not only represents the Council's position but also reflects the compromise agreed upon by the three institutions following the trilogue negotiations held from September to November 2006. The Chairman of the European Parliament's Budget Committee and the rapporteur for this proposal have informed the Council Presidency by letter that if the compromise text is adopted by the Council as it stands, they would be recommending the Budget Committee and the plenary to approve the common position without amendments in the Parliament's second reading.

The common position introduced a number of changes in the Commission proposal; the main ones are listed below:

- Article 2, article 6 and the annex introduce two new forms of granting Community aid for public-private-partnership projects in the field of transport. They have been elaborated in close cooperation with and are supported by the Commission and the EIB.
- Article 5, concerning the selection of projects, was modified in order to make these rules as coherent as possible with the existing transport and energy guidelines and taking into account views expressed by the Council and the EP. These changes are acceptable to the Commission.
- Article 6 was largely maintained, only the proposed support rates for inland waterway priority projects and energy priority projects were not accepted. The Commission regrets that its proposed rates were not supported in its entirety but accepts the compromise.
- Article 7.1, concerning the non-cumulation of Community financial aid, was deleted. Although the Commission would have preferred that this paragraph had been maintained, it considers that the principle of non-cumulation is not affected.

The Commission has produced a declaration on this issue which has been annexed to the PV of TTE December Council (see attached declaration).

- Article 8 was slightly modified, in order to make clear that the work programmes only *apply* the criteria laid down in the guidelines decisions and the TEN-Regulation and do not add, amend or reduce non-essential elements of the basic act. The Commission supports the modifications.
- Article 9 was changed in order to ensure consultation of the regulatory committee for the Commission decision on the amount of financial aid to be granted to the projects or part of projects selected. The Commission can accept this consultation.

- Article 15, concerning the committee that is to be consulted for certain Commission decisions – for example concerning the work programme – was changed in order to have a regulatory instead of a consultation committee. The Commission can accept a regulatory committee, as was the case with Regulation 2236/95.

#### **4. CONCLUSION**

The Commission considers that the Council's common position alters neither the main aim nor the spirit of its proposal and is therefore able to support it. It welcomes the fact that the common position reflects the state of the interinstitutional negotiations, paving the way for the adoption of this proposal in second reading.

Annex: declaration on non-cumulation

### **Commission declaration on non-cumulation:**

"The question of cumulation of Community funding of various financing sources on the same project has been a constant preoccupation of the Commission. The Court of Auditors has highlighted this issue in its reports on the implementation by the Commission of the trans-European networks

In the context of operational programmes receiving financial assistance from the Structural Funds and/or the Cohesion Fund, Community financial instruments other than those Funds cannot provide a substitute for the required national co-funding

Expenditure within a project that is part of an operational programme receiving financial assistance from the Structural Funds and/or the Cohesion Fund cannot benefit from other Community funding. It follows that when expenditure, for example for ERTMS equipment or electrification of a railway line, is not receiving financial assistance from the Structural Funds and/or the Cohesion Fund, it could benefit from TEN-funding. The actual construction of the railway line could be funded by the ERDF or the Cohesion Fund.

Projects could also be divided in geographical sections, which could be co-financed either by ERDF/Cohesion Fund or TEN-funding.

When granting TEN-subsidies, the Commission will therefore check whether the projects have not received funding from the Structural Funds or the Cohesion Fund.

After consultation of the Court of Auditors, the Commission will also issue guidelines to Member States on how the different funding instruments can be combined."