

Opinion of the Committee of the Regions on the Revision of the guidelines for regional State aids

(2006/C 31/07)

THE COMMITTEE OF THE REGIONS,

Having regard to the decision of the European Parliament of 21 April 2005 to consult it on the 'Revision of the guidelines for regional State aids', under the article 265 of the Treaty establishing the European Community;

Having regard to the decision of its President of 19 May 2005 to instruct its Commission for Territorial Cohesion Policy to draw up an opinion on this subject;

Having regard to the non-paper consultation document from the European Commission DG Competition on the review of the Guidelines for regional aid;

Having regard to the Communication from the Commission — Third Report on Economic and Social Cohesion (COM (2004) 107 final);

Having regard to the Proposal for a Council Regulation laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund, COM(2004) 492 final — 2004/0163 (AVC) and the other proposals for regulations of the European Commission concerning the Cohesion Fund, COM(2004) 494 final — 2004/0166 (AVC) and the European Regional Development Fund (ERDF), COM(2004) 495 final — 2004/0167 (COD);

Having regard to its opinion on *The Third Report on Economic and Social Cohesion* (CdR 120/2004 fin) ⁽¹⁾;

Having regard to its opinion on *Building our common Future Policy challenges and Budgetary means of the Enlarged Union 2007-2013* (CdR 162/2004 fin);

Having regard to the conclusions of the Barcelona and Gothenburg European Councils, in which the Member States agree on the compromise to reduce the level of state aids in the European Union, orientating them to subjects of common interest, including economic and social cohesion;

Having regard to its draft opinion (CdR 77/2005 rev. 1) adopted on 29 April 2005 by its Commission for Territorial Cohesion Policy (rapporteur: **Mr Vicente Alvarez Areces**, President of the Principality of Asturias (ES/PES));

Whereas:

- 1) Article 158 of the EC Treaty defines the cohesion objective as follows: 'In order to promote its overall harmonious development, the Community shall develop and pursue its actions leading to the strengthening of its economic and social cohesion'. Article III-220 of the Treaty establishing a Constitution for Europe adds the territorial dimension to this objective;
- 2) although the EC Treaty generally sees state aid as distorting competition ⁽²⁾ regional aid is justified in the case of certain regions where its specific objective is to develop these regions ⁽³⁾;
- 3) the existence of a regulatory framework for regional state aid can be instrumental in the redistribution of income and wealth within the EU as part of the European economic and social project and thus build a stronger foundation for sustained economic growth;
- 4) regional aid is one of the factors influencing investment location, and the phenomenon of relocation is emerging in the European internal market and globally; assistance from public authorities through state aid should be examined from two perspectives: in a European context and with reference to the phenomenon of globalisation;

⁽¹⁾ OJ C 318 du 22.12.2004, p. 1

⁽²⁾ Article 87 of the EC Treaty

⁽³⁾ Guidelines on national regional aid (98/C74/06), OJ C 74 of 10.3.98.

- 5) regional aid can be a useful instrument in achieving the objectives of the Lisbon Strategy, in contributing to the balanced development of industrial policy throughout the EU and achieving sustainable growth with the creation of high-quality jobs;

adopted the following opinion at its 60th plenary session of 6 and 7 July 2005 (meeting of 7 July):

I. The Committee of the Regions' views

1. General comments

The Committee of the Regions

1.1 **believes** that, as regards compliance with the economic, social and territorial cohesion objectives laid down in Article 158 of the EC Treaty, state regional aid is an instrument that can be used by public authorities to develop their economic and business policy. This recognised capacity of public authorities should be coordinated so as to avoid increasing the imbalances between countries and regions;

1.2 **considers** that better targeted state aid should have three clear objectives:

- a. to offset market failures while at the same time not distorting competition;
- b. to help reduce imbalances between areas;
- c. to boost the competitiveness of businesses and areas.

While regional aid has proved effective for the first and second of the above objectives, as shown by the studies available to the European Commission, the third objective might require more selective aid, such as horizontal aid (R+D, environment, training, employment, SMEs, etc). However, all these kinds of aid should be coordinated in terms of their aims and operation, and should be geared towards achieving the cohesion objectives throughout the EU;

1.3 **believes** that all aid granted for a certain area should form part of strategic regional development plans in which those projects that clearly promote regional development are prioritised. This aid, together with other economic and business-related factors, has an influence on the location of companies and the improvement of regional competitiveness;

1.4 **takes the view** that cohesion policy has obtained positive results in recent years, and that the guidelines on state regional aid, along with the guidelines on multi-sectoral aid for major investment projects, have helped meet the objectives of European regional policy. Therefore, the European Commission's role in monitoring the aid granted by state authorities is very important for less prosperous regions;

1.5 **considers** that, in order to achieve balanced development between the different areas of the EU, it should be noted that European regions can be divided into two groups according to the two main problems they face:

- regions that have particular difficulties achieving economic development and the convergence objective at European level;
- regions with greater income and wealth than the above regions, that need to increase their competitive ability both in relation to more competitive regions of Europe and on a global level.

a) Assessment of state aid in recent years

The Committee of the Regions

1.6 **takes note** that various studies have shown that, in recent years, the volume of aid has tended to fall in less developed regions, while more competitive regions are increasing support to their businesses, through the development of different state aid schemes on the basis of the various derogations contained in the EC Treaty. This has had undesired effects, such as a notable drop in the effectiveness of regional aid, and an increase in the overall volume of public expenditure on state aid at Community level.

b) Rules

The Committee of the Regions

1.7 **supports** the general principles adopted by the Commission in the reform of the regional state aid guidelines, namely:

- concentration on the poorest regions (in an EU25);
- competitiveness of all regions, in line with the revitalised Lisbon Strategy;
- continuity, with a smooth transition from the current to the new regime;

But would like to include another principle, that of:

- complementarity with the future Structural Fund programmes;

1.8 **believes** that the regional aid guidelines provide a framework of rules for coordinating other rules on horizontal and sectoral aid, and serve as a point of reference in response to the various questions often raised by the application of rules on state aid. Revision of other state aid instruments must be carried out with a view to helping achieve the cohesion objective and contributing to a lower overall level of state aid at Community level, as called for in the conclusions of the Stockholm and Barcelona European Councils;

1.9 **considers** that the Commission's proposal to incorporate the new regional aid guidelines within a regulation on exemption from notification could serve to clarify and simplify rules on state aid as desired; recommends, however, that the new rules should clearly set out the criteria, requirements and limits applicable to fundable investments;

1.10 **believes** that the proposal to incorporate the EU guidelines on multi-sectoral aid for major investment projects into the guidelines on regional aid could help simplify the applicable rules.

c) New thresholds provided for by the Commission proposal

The Committee of the Regions

1.11 **draws attention to** the Commission's proposal for maximum aid thresholds, based on the commitment made by Member States at the European Councils of Stockholm and Barcelona; believes, however, that the proposal for the general reduction of maximum aid thresholds set out by the Commission in its consultative documents may not be compatible — particularly in some regions — with the ambitious objectives of the Lisbon Strategy and the efforts required in terms of cohesion, due to the effects of enlargement; considers that the goal of reducing the overall level of aid could be reached in a way that coincides more closely with the European political project, by reorienting aid towards more selective horizontal cohesion criteria, as established by the European Councils;

1.12 **believes** that the reduction of maximum aid thresholds should be graded, taking account of various criteria affecting regional economic development;

1.13 **considers** that the Commission should provide transitional measures for state regional aid, consistent with the regions' new economic situation and the new objectives of the European cohesion policy. Thus, those regions in transition from one status to another would experience a gradual reduction in aid that would help to ease their loss of entitlement to use state aid as an instrument of regional development policy;

1.14 **considers** that economic, social and territorial cohesion throughout the EU can only be achieved if different situations are dealt with in different ways. In this context, regional

aid could help to compensate for unfavourable situations suffered by certain areas of Europe.

Indicators:

1.15 **highlights** the fact that the Commission is maintaining the classification of regions given in Article 87(3)(a) TEC, based on gross domestic product as a way of harmonising criteria and maps with the Structural Funds allocation criteria;

1.16 **believes** that unassisted regions should be classified according to their competitiveness. In order to determine their level of competitiveness, indicators other than the traditionally used GDP could be applied. If this is not more in keeping with the literal wording of Article 87 of the EC Treaty and with the aims of European cohesion policy, it is suggested that the regional employment rate might also be included as a reference indicator. It should be borne in mind, in this regard, that the indicator set as an objective under the Lisbon agreements is the employment rate. However, the Commission could consider the application of other indicators, such as the unemployment rate, population ageing and R&D capacity;

Net/gross grant:

1.17 **believes** that the Commission's proposal to base maximum aid percentages in terms of gross grant (unlike the previous period in which the different taxation systems were taken into account via the net grant equivalent (NGE) formula) will, rather than reducing the overall volume of aid as the Commission states, increase the differences between aid that can be received by companies, taking account not of cohesion criteria but the taxation systems in different countries. Here, it should be noted that tax burdens vary greatly between the EU 25 countries;

1.18 **considers** that simplification is not in itself sufficient reason for eliminating the NGE calculation. This calculation is obtained by applying a formula, frequently used during the current programming period, which does not significantly complicate aid management. Moreover, the NGE formula should be used in order to calculate the real impact of state aid on regional development.

2. Areas that could be covered by the exception under Article 87(3)(a) TEC

The Committee of the Regions

2.1 **notes** that the Commission is proposing to reduce maximum aid ceilings and differentiate according to three per capita GDP categories, with bonuses for small and medium-sized enterprises; proposes that this provision be revised so that the overall reduction of state aid be achieved by gearing aid towards more selective (horizontal and cohesion-related) criteria rather than by lowering the maximum aid ceilings;

2.2 **proposes** giving particular consideration to these various situations requiring special attention;

2.3 **congratulates** the Commission on the treatment granted to the outermost regions, in line with the provisions of the Constitutional Treaty — inclusion in Article 87(3)(a);

2.4 **notes**, however, that the Commission has not given specific consideration to the situation of regions such as island and upland regions, regions with low population density, rural or border regions or those affected by regional change, whose structural conditions hamper their development;

2.5 **points out** that the regions suffering from the statistical effects of enlargement be included under Article 87(3)(a) for the duration of the programming period ⁽⁴⁾; recalls that the Convergence objective of the Commission's new cohesion policy is aimed at less developed States and regions, including regions affected by the statistical effects of enlargement;

2.6 **believes** that the threshold of 75 % of per capita GDP should be waived, in relation to state aid, for regions suffering from the statistical effect, in the same way as Article 5 of the draft regulation does with regard to the general provisions of the Structural Funds; This would produce an exact match between the convergence objective, as set out in the Commission's legislative proposals, and the map of aid for regional purposes, in which the 'statistical effect' regions would only be distinguished from other convergence objective regions by the lower intensity of aid, in keeping with the smaller Structural Funds allocations they would receive;

2.7 otherwise, these regions would be further penalised, since the effects of inclusion among regions classified under Article 87(3)(c) or (a) are not, under the present rules governing state aid, restricted only to the aid percentage ceiling, as indicated in point 2.12 below. It would also entail problems of integration into the design of the Structural Funds' convergence objective intervention methods, by including regions with aid regimes covered by different paragraphs of Treaty Article 87.

a) Bonuses for certain regions:

The Committee of the Regions

2.8 **believes that**, bonuses should also be considered for other regions suffering from natural, geographic or demographic handicaps:

— rural areas;

— areas affected by industrial transition;

— regions which suffer from severe or permanent natural or demographic handicaps, such as:

— the northernmost regions with very low population density;

— island regions;

— border regions;

— upland regions.

b) Operating aid:

The Committee of the Regions

2.9 **points out** that the current regional aid guidelines state that 'In exceptional cases, such aid may not be enough to trigger a process of regional development, if the structural handicaps of the region concerned are too great. Only in such cases may regional aid be supplemented by operating aid' ⁽⁵⁾;

2.10 **recalls** that the circumstances that must be evaluated in order to determine whether structural handicaps are 'too great' are referred to in Article III-220 of the Constitutional Treaty;

2.11 **notes** that the proposal for new regional aid guidelines exempts the outermost regions and regions with low population density from the general prohibition on operating aid. However, no mention is made of other clear structural handicaps, such as those suffered by island, border or upland regions. In the case of regions with permanent handicaps, it would make sense not to demand that operating aid be degressive and temporary.

c) Other consequences for regions no longer classified under Article 87(3)(a)

The Committee of the Regions

2.12 **stresses** the fact that, by no longer classifying regions under Article 87(3)(a), not only will aid percentages be reduced, but percentage bonuses will also be lost in various horizontal or sectoral frameworks, and exemptions from certain prohibitions or limitations will be lost, such as for operating aid, aid to companies in difficulty, ad hoc aid, etc.;

2.13 **calls on** the Commission to examine whether regions with natural, structural or demographic handicaps that are no longer to be classified under Article 87(3)(a) could benefit from the more favourable treatment granted to such regions.

⁽⁴⁾ As stated in the CoR Opinion on the Third report on economic and social cohesion (CdR 120/2004)

⁽⁵⁾ Guidelines on national regional aid (98/C74/06), paragraph 5 of the Introduction.

3. Areas that could be covered by the exception under Article 87(3)(c) TEC

The Committee of the Regions

3.1 **welcomes** the fact that the Commission is willing to adjust the percentage of the population living in the regions coming under Article 87(3)(c) by including all those regions no longer covered by Article 87(3)(a); believes, however, that the regions suffering from the statistical effect of enlargement should, to all intents and purposes, be covered by Article 87(3)(a) and should therefore not be included in this section;

3.2 **reiterates** its **calls** that, as stated in the CoR Opinion on the Third report on cohesion, 'the regions affected by natural effect' (regions no longer covered by Article 87(3)(a) due to economic growth) should 'have a transition from Article 87(3)(a) to Article 87(3)(c) over the course of the aid period'. In terms of grading and level of aid, this transition should resemble the one provided for regions suffering from the statistical effect;

3.3 **considers** that, among the regions covered by the exception in Article 87(3)(c) (regions previously covered under Article 87(3)(a)), the following specific cases should be considered:

- regions no longer covered by Article 87(3)(a) for economic reasons, once the transitional period mentioned in point 3.2 has ended;
- regions that, in addition to no longer being covered under Article 87(3)(a), are:
 - areas with low population density;
 - island, border or upland areas;
 - rural areas and areas affected by industrial transition;

3.4 **considers** that these regions should benefit from bonuses over the maximum threshold for general aid;

3.5 also **requests** that territories suffering serious economic crisis be temporarily eligible under Article 87(3)(c); this would apply to situations related to major restructuring measures (such as a large company closing down, with a large number of job losses);

3.6 also **requests** that regions suffering some of the handicaps listed above, with a GDP *per capita* of no more than 100 %, or with an abnormally low employment rate, be temporarily eligible under Article 87(3)(c). The Commission should periodically review economic regional indicators, in order to assess the eligibility of regions receiving aid under RAGs, taking into account the economic growth and the unemployment rate;

3.7 **asks** that both regions with low population density and islands not covered by Article 87(3)(a) be included as regions

eligible under Article 87(3)(c), and that operating aid to transport be allowed that is not temporary or degressive;

3.8 **considers** that the different problems in each region should be evaluated in line with various criteria so as to measure the region's competitive and economic development potential, and that state aid should be granted in a flexible manner in accordance with these criteria.

4. Areas covered by the regional competitiveness and employment objective

The Committee of the Regions

4.1 welcomes the Commission's decision to take a thematic approach rather than one based on selected geographical areas, in order to achieve consistency between competition policy and regional policy and the objectives of Lisbon and Gothenburg;

4.2 with regard to the provision under which regions excluded from Article 87(3)(a) and (c) can be eligible for horizontal aid, in line with the objectives set out at the last European Councils, **warns** that economic situations and territorial differences may need to be taken into account in order to meet the regional policy objectives;

4.3 **proposes**, therefore, that regions be classified according to their level of competitiveness, so that the horizontal aid can be received in a graded manner;

4.4 **believes** that, to ensure real consistency between competition and regional policies, the criteria for territorial classification of unassisted regions should be covered in the new regional aid guidelines, and that the horizontal frameworks should allow for more favourable treatment of regions with lower levels of competitiveness, based on the classification drawn up in the regional aid guidelines. This more favourable treatment could involve bonuses above the aid thresholds provided for in the horizontal frameworks;

4.5 **draws** the Commission's attention to the fact that, in its most recent proposal for maximum regional aid thresholds, the only percentage increase considered was for small and medium-sized enterprises in non-eligible regions. This contrasts with the considerable reduction planned for certain eligible areas (especially those affected by the statistical effect and natural effect);

4.6 **believes** that the cohesion policy objectives defined in the Treaty require different treatment in line with the various situations and problems that actually exist; **calls** on the Commission to define the different treatment required for each region, according to its level of development and competitiveness;

4.7 **highlights** the case of unassisted regions which share a land border with another, assisted region; **requests** that in such cases, as well as drawing up maximum differential aid percentages between neighbouring regions, other parameters be taken into account that compare regions' economic and competitive capacities. This would prevent situations that are unjustifiable in terms of the European cohesion policy;

4.8 **calls** for ceilings to be established for volumes of overall state aid, according to the level of regional competitiveness. This figure could be determined in relation to per capita GDP or to the population.

5. Regional aid and horizontal frameworks

The Committee of the Regions

5.1 **requests** that, in order to meet the strategic objectives set at the Lisbon and Gothenburg summits, horizontal aid (R+D, environment, employment, training, SMEs, etc.) should be deployed particularly in regions with a lower level of economic development or competitiveness; to this end, particular emphasis should be given to coordinating the various rules regulating regional and horizontal aid;

5.2 **requests** that for both assisted and unassisted regions, bonuses over the aid thresholds provided for in the various horizontal aid frameworks should be considered, both graded and in line with the various regional situations, putting special emphasis on and enabling greater flexibility for centres of technological innovation;

5.3 **considers** that *de minimis* aid, low-level aid, or aid with limited effects on Community trade cannot alone counteract low development levels in a particular region; on the contrary, this type of aid can be used to a higher degree in countries or regions with a greater financial capacity and, therefore, higher wealth indicators;

5.4 **proposes**, therefore, that the European Commission analyse and take into consideration the impact of this type of aid on regional development.

6. Sectoral aid and regional development

The Committee of the Regions

6.1 **highlights** the fact that aid granted in some sectors particularly affects the economic development of regions; this applies to aid in the transport sector, for example; **draws attention to** aid to low-cost airlines or maritime transport, which can boost the development of regions with greater economic problems, often caused by geographical barriers;

6.2 **proposes** making special efforts in this field in order to effectively coordinate all aid that impacts on regional development, so as to ensure favourable treatment of sectoral aid granted in less developed, less competitive regions;

6.3 **welcomes** the European Commission's efforts to develop the regulatory framework of state aids for services of general economic interest. It would also be desirable for less prosperous regions and regions which suffer from severe or permanent natural or geographic handicaps to have a more favourable framework for the development of their services of general economic interest and indeed a clear and comprehensive framework to distinguish those services that must be deemed economically significant from those that are not;

6.4 **believes** that the exemption from notification of compensation for public services should be extended to include services of general interest that represent essential tasks of public authorities, especially provision of social housing, public hospitals, education and general social services. The Commission should raise the notification thresholds, and notification should be ex post. This formal procedure would thus have no negative impact on the provision of essential services, which otherwise might be blocked.

7. Types of aid

The Committee of the Regions

7.1 **recalls** that regional aid is granted as direct aid to investment or investment-linked employment aid. However, other means of support have also proved particularly useful in boosting entrepreneurship and promoting productive investment to improve the economic climate; this applies to equity participation in enterprises, regional risk-capital funds, business incubators, guarantees, affordable industrial land (particularly in regions where it is very expensive), etc.;

7.2 **urges** the Commission to consider adding new forms of support to regional aid, which would optimise the use of public funds and have a more limited effect on competition.

8. Aid and relocation

The Committee of the Regions

8.1 **is pleased to note** that the proposal for the new Community Structural Fund Regulations introduces a requirement to maintain investments for seven years, with Community aid forfeited if the recipient company relocates to another area before this period expires. However, exceptions could be made in accordance with the technological characteristics of different sectors.

9. Definition of initial investment

The Committee of the Regions

9.1 **believes** that it is as important to consolidate companies already set up in an area as it is to attract new companies. Thus, unfavourable treatment should not be given to companies already established in a particular area and investing in expansion and consolidation, as opposed to companies with similar investment projects that are setting up in the same area. Also, if support is only given for initial start-up, businesses might be encouraged to relocate;

9.2 **considers** that land purchase and development costs vary greatly from one region to another, depending on the physical features of the terrain therefore, rather than prohibiting the funding of land-related costs, it would be better to limit it as a proportion as the planned investment total, in regions where land purchase, development, etc. are a significant factor;

9.3 **also proposes** introducing systems or percentages for intangible investment in order to limit the maximum amount of funding in relation to the total investment.

II. The Committee of the Regions' recommendations

The Committee of the Regions calls for:

1. the reform of regional aid in order to reduce its overall amount, as established by the Stockholm and Barcelona Councils and redirect it in line with the cohesion objectives, taking account of different regional situations and the priorities set out by the EU. The overall volume of regional aid could be reduced by fairer means than just cutting maximum thresholds across the board;
2. the net grant equivalent concept to be maintained for the calculation of regional aid;
3. transitional periods to be considered for regions moving from classification under Article 87(3)(a) to Article 87(3)(c). In these cases, aid should be graded in such a way as to prevent these regions from paying for enlargement (regions affected by the statistical effect and natural effect). Also, regions falling under Article 87(3)(c) and those losing this status should be given better treatment, while taking into account the maximum population limit for receiving regional aid;

4. the drawing up of objective criteria and sound legal arguments to classify regions and grade regional aid in line with the cohesion objectives;

5. classification criteria to be laid down in order to take account of the specific features of each region, independent of geographical location. This classification should be adapted to take account of the progress made by each region over time;

6. percentage bonuses to be given consideration for regions with natural, demographic or structural handicaps, whether classified under Article 87(3)(a) or 87(3)(c) of the EC Treaty;

7. the inclusion of bonuses to be given consideration in the horizontal frameworks for regions according to their levels of development and competitiveness (assisted and unassisted regions);

8. the coordination of regional aid guidelines with horizontal aid and the priority objectives of the Lisbon agenda;

9. the inclusion of coherent criteria in the regional aid guidelines relating to aid for sectors that play a key role in regional development;

10. examination and analysis by the European Commission of the diversity of regional situations existing in Europe, so that its proposals can be adjusted to meet equitable criteria;

11. aid for which a region is eligible to form part of strategic regional development plans;

12. other indicators to be considered in order to assess the regional economic situation, such as the employment rate, particularly in the case of unassisted regions;

13. the use of other forms of business aid that are easier to manage and cost less in terms of public funds;

14. the establishment of higher thresholds for the notification of services of general economic interest: this notification should be ex post, distinguishing those rights which are enshrined in national constitutions and are not economic services;

15. special consideration to be given to new forms of business support (risk capital, guarantees, equity participation, tax relief, etc.).

Brussels, 7 July 2005

The President
of the Committee of the Regions
Peter STRAUB