

**REGULATION (EC) No 807/2004 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**of 21 April 2004**

**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 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>(1)</sup>,

Having regard to the opinion of the European Economic and Social Committee <sup>(2)</sup>,

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>(3)</sup>,

Whereas:

- (1) The High-Level Group on the trans-European transport network chaired by Mr Karel Van Miert expressed concern that the delays in the cross-border sections of the priority projects on the trans-European transport network (TEN) were having an adverse effect on the profitability of the investments made by the Member States in the sections in their own country, denying them the benefit of economies of scale, and recommended that the rate of Community financing should be differentiated, according to the benefits to other countries, in particular the neighbouring countries, stressing that such modulation should in the first instance benefit the cross-border projects used by long-distance transport services. Moreover, the Community financing rate should be differentiated according to the extent to which the project's economic benefits exceed its financial profitability.
- (2) To this end the High-Level Group recommended a higher rate of Community aid to promote completion of the cross-border connections for the priority projects and added that the budgetary impact of such a change would be limited. This should be implemented bearing

in mind the need to focus TENs resources on key projects, while recognising the need for continued financial support for non-priority projects.

- (3) The possibility should be given to meet the budgetary commitments by means of annual instalments, while basing them on a global and multiannual legal commitment.
- (4) A temporary increase in the rate of Community aid may provide an incentive for actors to speed up and to render effective the implementation of priority projects covered by this Regulation.
- (5) The establishment of public-private partnerships (or of other forms of cooperation between the public and private sectors) demands a firm financial commitment from institutional investors which is sufficiently attractive to raise private capital. Granting Community financial aid on a multiannual basis would remove the uncertainties which are slowing down project development. Measures should therefore be taken to grant financial support to the projects selected on the basis of a multiannual legal commitment.
- (6) 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.
- (7) Council Regulation (EC) No 2236/95 <sup>(4)</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>(5)</sup>.

<sup>(1)</sup> OJ C 75 E, 26.3.2002, p. 316 and OJ C 151 E, 25.6.2002, p. 291.

<sup>(2)</sup> OJ C 125, 27.5.2002, p. 13.

<sup>(3)</sup> Opinion of the European Parliament of 2 July 2002 (OJ C 271 E, 12.11.2003, p. 163), Council Common Position of 24 February 2004 (not yet published in the Official Journal) and Position of the European Parliament of 30 March 2004 (not yet published in the Official Journal).

<sup>(4)</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>(5)</sup> OJ L 184, 17.7.1999, p. 23.

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

b) the following paragraph shall be added:

'5. In the case of the projects referred to in paragraph 3, within the limits of this Regulation, the legal commitment shall be multiannual and the budgetary commitments shall be met in annual instalments.';

HAVE ADOPTED THIS REGULATION:

#### Article 1

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

1. Article 5 shall be amended as follows:

(a) paragraph 3 shall be 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 concerning satellite positioning and navigation systems, as provided for in Article 17 of 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 (\*);

(b) priority projects on the energy networks;

(c) sections of the projects of European interest, provided that the projects are started before 2010, identified in Annex III to Decision No 1692/96/EC with the aim of eliminating bottlenecks and/or filling in missing sections, if such sections are cross border or cross natural barrier, and contribute to the integration of the internal market in an enlarged Community, promote safety, ensure the interoperability of the national networks and/or strongly contribute to the reduction of imbalances between modes of transport, in favour of the most environment-friendly modes. This rate shall be differentiated according to the benefits to other countries, in particular neighbouring Member States.

(\* ) 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).'

2. in Article 13, the following paragraph shall be added:

'4. If, 10 years after the financial aid was awarded, the operation in question has not been completed, the Commission may demand reimbursement of the aid paid, with due regard to the principle of proportionality, taking into account all relevant factors.';

3. Article 17 shall be replaced by the following:

'Article 17

#### Committee procedure

1. The Commission shall be responsible for the implementation of this Regulation.

2. The Commission shall be assisted by a committee. The European Investment Bank shall appoint a representative to the Committee who shall not vote.

3. Where reference is made to this Article, Articles 5 and 7 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (\*) shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

4. The Committee shall adopt its Rules of Procedure.

(\* ) OJ L 184, 17.7.1999, p. 23.'

4. in Article 18, the following paragraph shall be 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 Union*.

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

Done at Strasbourg, 21 April 2004.

*For the European Parliament*

*The President*

P. COX

*For the Council*

*The President*

D. ROCHE

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