

## Opinion 16/94 of the Committee of the Regions (5 April 1994)

**Caption:** On 5 April 1994, the Committee of the Regions, at the request of the Council, delivers an opinion for the first time. This opinion regards the proposal for a Council Regulation establishing a Cohesion Fund.

**Source:** Official Journal of the European Communities (OJEC). 06.08.1994, No C 217. [s.l.].

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## Opinion of the Committee of the Regions on the proposal for a Council Regulation (EC) establishing a Cohesion Fund (1) (5 April 1994)

### THE COMMITTEE OF THE REGIONS

Whereas Article 2 of the Treaty establishing the European Community includes the task of promoting economic and social cohesion and solidarity between Member States as objectives essential to the Community's development and success, and whereas Article 3 refers to the strengthening of economic and social cohesion as one of the activities of the Community for the purposes set out in Article 2;

Whereas Article 130a of the Treaty stipulates that, in order to promote its overall harmonious development, the Community is to develop and pursue its actions leading to the strengthening of its economic and social cohesion, and in particular is to aim at reducing disparities between the levels of development of the various regions and the backwardness of the least-favoured regions, including rural areas;

Whereas in a Declaration annexed to the Treaty, the Member States acknowledged that the outermost regions of the Community (the French overseas departments, the Azores, Madeira, and the Canary Islands) suffer from major structural backwardness compounded by several phenomena, the permanence and combination of which severely restrain their economic and social development;

Whereas Article 130d calls for the establishment of a Cohesion Fund to provide a financial contribution to projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas the Member States have agreed that the Cohesion Fund will provide Community financial contributions to projects in Member States with a per capita GNP of less than 90 % of the Community average which have a programme leading to the fulfilment of the conditions of economic convergence as set out in Article 104c of the Treaty;

Whereas the Heads of State or Government, meeting in Lisbon on 26 and 27 June 1992 and in Edinburgh on 11 and 12 December 1992, agreed the principles and arrangements for implementing the Cohesion Fund, and whereas in the financial perspective for the General Budget of the European Communities the European Council set the resources available to be committed to the Cohesion Fund at ECU 15,150 million;

Whereas in view of possible delays in the ratification of the Treaty on European Union, the Heads of State or Government invited the Commission to submit and the Council to adopt, by 1 April 1993, a proposal on the establishment of an interim instrument, based on Article 235 of the Treaty of Rome, to provide financial aid to Ireland, Greece, Portugal and Spain in the fields of application of the Cohesion Fund;

Whereas in response to the invitation of the European Council, the Commission proposed and the Council adopted, on 30 March 1993, Regulation (EEC) No 792/93 <sup>(2)</sup> establishing a cohesion financial instrument which became operative on 1 April 1993 and is to remain in force until 1 April 1994, and whereas by a Decision of 10 March 1994 the Council extended the period of application of the Regulation until 31 December 1994 in order to ensure continuity between this instrument and the Cohesion Fund;

Whereas on 21 December 1993 the Commission submitted to the Council a proposal for a Council Regulation establishing a Cohesion Fund and a proposal for a Council Regulation laying down the corresponding implementing rules <sup>(3)</sup>;

Whereas on 3 March 1994 the Council decided, under the terms of Articles 130d and 198c of the Treaty establishing the European Community, to consult the Committee of the Regions (COR) on the proposal for a Regulation establishing a Cohesion Fund, and asked it to deliver its Opinion within one month of the date of receipt of the referral,

ADOPTED

by a unanimous vote, on the first day of its 2nd Plenary Session of 5-6 April 1994, the following Opinion drawn up by its Rapporteur-General, Mr João Bosco Mota Amaral.

## **1. General comments**

### **1.1. Broad approval**

The Committee of the Regions recognizes that the present proposal for a Council Regulation and the Cohesion Fund which it is to establish, broadly meet the objectives set out in the key documents cited in the preamble, and that, by providing a practical expression of European solidarity, they represent an extremely positive contribution towards strengthening the economic development of the regions of the most outlying and least-developed Member States within the Union.

Accordingly, the Committee of the Regions broadly endorses the proposal and issues a favourable Opinion. It recommends that the proposal be approved as a matter of urgency so that the Regulation can enter into force forthwith.

### **1.2. Regulation laying down detailed implementing rules**

Acting under the terms of Article 198c of the Treaty, and in view of the importance of the Cohesion Fund for achieving the goal of economic and social cohesion, the Committee of the Regions (COR) considers it appropriate to include in the present Opinion some comments on the proposal for a Regulation laying down detailed rules for implementing the Cohesion Fund, which the Commission submitted to the Council on 21 December 1993 [COM(93) 699 final].

### **1.3. Subsidiarity and partnership**

Bearing in mind (i) the subsidiarity principle as defined in the Treaty on European Union, (ii) the Edinburgh European Council's recommendation that the implementing arrangements for the Cohesion Fund should draw on the experience gained in implementing the Structural Funds, and (iii) the fact that one of the key principles of the Structural Fund reform is the partnership principle as defined in Article 4 of Council Regulation (EEC) No 2081/93 of 20 July 1993<sup>(4)</sup>, the COR considers that the competent authorities at regional and local level should be closely involved in the management of the Cohesion Fund (establishment of priorities; assessment and monitoring of projects; and participation in the monitoring committees which are to be set up). The COR also asks the Commission, when approving projects, to take account of the opinions drawn up by the regional and local authorities directly involved.

### **1.4. Coordination between development instruments**

The promotion of economic and social cohesion calls for concerted action by the various Community financial instruments, in particular the Structural Funds, the Cohesion Fund and the European Investment Bank. The COR therefore considers that, when approving project applications for the Cohesion Fund, the Commission should take account of these projects' compatibility with the measures planned in the operational programmes approved under the Community Support Framework for each region, in order to ensure greater synergy between all the development instruments used (notably by including the indicative financial allocations of the Cohesion Fund in the financing plan for the Community Support Frameworks).

### **1.5. Concentration**

The COR notes the provision whereby, until the end of 1999, only the four Member States which currently meet the GNP criterion laid down in the conclusions of the Edinburgh European Council will be eligible for Cohesion Fund assistance. This accords with the principle of geographical concentration of Community structural resources, as enshrined in the reform of the Structural Funds. The COR notes that a number of Objective 1 Regions throughout the Community will not receive any Cohesion Fund monies, even though there can be great deprivation in such regions. The COR wishes to ensure that such regions do not fall

further behind the Community average standard of living, and face further economic and social disadvantage.

## **1.6. Balance between environment and transport**

The COR considers it extremely important that an appropriate balance is struck in each region between environmental projects and transport infrastructure projects, with due account for the fact that the financial sums involved do not always reflect the importance of a project or its impact on regional economic development.

Projects must be examined to see whether they are environmentally friendly, as a prerequisite for aid from the Cohesion Fund.

## **2. Specific comments**

### **2.1. Guidelines for transport infrastructure projects**

The COR stresses the importance of the provision in Article 3(1) under which assistance may be provided for transport infrastructure projects of common interest contributing to the achievement of the objectives of Article 129b of the Treaty, even before the Council has adopted the corresponding guidelines. It is right that the Member States eligible for Cohesion Fund assistance should not suffer as a result of any delays in the approval of these guidelines. It should be noted here that the Brussels European Council of 10 and 11 December 1993 asked the European Parliament and the Council to speed up the procedures so that the outstanding guidelines could be adopted before 1 July 1994.

### **2.2. Indexation of financial resources**

The COR draws the Commission's attention to the fact that the financial resources listed in Article 4 are expressed in real terms (1992 prices), in line with the commitments made at Edinburgh, and must be indexed accordingly.

### **2.3. Macro-economic conditions for assistance**

The COR points out that Article 6(1) provides for the suspension of Cohesion Fund financing where the Council decides that a Member State has an excessive government deficit under the terms of Article 104c of the Treaty. The COR asks the Council, when deciding whether a government deficit is excessive, to take account not only of the exceptions laid down in Article 104c(2) of the Treaty, but also of the goals of the convergence programmes approved by the Council.

### **2.4. Limitation of the financial scale of projects**

Article 10(3) specifies that 'the total cost of projects or groups of projects may in principle not be less than ECU 10 million'. As this provision is designed to ensure that the projects which are approved have a significant impact on regional and inter-regional development, and this impact is not necessarily related to their scale (especially where environmental projects are concerned), the COR considers that the provision should be made much more flexible.

### **2.5. Participation of regional and local authorities**

The COR considers that as the main objective of the Cohesion Fund is to achieve economic and social cohesion within the EU, the regional and local authorities should play a full part in the project selection and approval process. It therefore asks that Article 10(4) include a requirement that applications for assistance be accompanied by opinions from the regional and local authorities of the regions concerned, regarding the regional and inter-regional impact of the projects. It also asks that the regional and local authorities directly concerned play an appropriate part in determining the 'priorities established by the beneficiary Member

States' [Article 10(5)], not only in cases where these authorities have full power to frame or implement the projects within their region, but in all cases.

## **2.6. Projects in the outer-most regions**

Under Article 10 of the proposal, the Commission is responsible for the approval of projects. The COR asks the Commission, when considering projects to be carried out in the outermost regions, to take special account of the specific features of these regions which result from the combined effects of small size, remoteness, mountainous relief, and geographical dispersion (in the case of island groups).

## **2.7. Financial checks**

Article 12(5) stipulates that the Commission is to adopt rules for the conduct of financial checks and is to inform the European Parliament thereof. Given the importance of this matter, the COR thinks that it too should be informed, on the same terms as the European Parliament.

## **2.8. Information and publicity**

Article 14(1) requires the Commission to present an annual report on the activities of the Fund for examination by the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions. The COR reserves the right to deliver an Opinion on this report, as the European Parliament is to do, and asks the Commission to take due account of any comments it makes on the subject.

Article 10(2) indicates the steps which the Member States must take in order to ensure that adequate publicity is given to Cohesion Fund assistance. The COR stresses the importance of this provision and suggests that appropriate audio-visual media also be used to provide more effective information for the general public and potential beneficiaries.

## **2.9. Commitments and payments**

The COR has paid special attention to the provisions of the proposed implementing Regulation concerning budgetary commitments and payments of assistance, as these are important for the budgetary management of the regional and local authorities involved in the financing of Cohesion Fund projects. It recommends the following alterations in this connection:

- Article 4(2)(b) states that intermediate payments may only be made if the project is progressing satisfactorily and at least two-thirds of the expenditure relating to the previous payment has been made. Given that the Conclusions of the Edinburgh Council specified that the financial provisions of the Cohesion Fund should draw on experience in implementing the Structural Funds, for which the threshold is 50 % rather than two-thirds, the COR recommends that for the Cohesion Fund, too, a 50 % threshold be applied;
- Article 4(2)(c) stipulates that, as a general rule, the balance withheld by the Commission is to amount to 20 % of the total cost of the project; this may be reduced to 10 % in justified cases. The parallel with the Structural Funds is not valid here, as the Structural Funds are administered on a programme basis while the Cohesion Fund is project-related. In the case of the Structural Funds, the sum to be withheld is calculated on the basis of the final annual instalment of the programme, not the total cost of the project. The COR thinks that the withholding of 10 % should be the norm for all projects supported by the Cohesion Fund, as a higher percentage could jeopardize the conclusion of some projects.

## **2.10. Monitoring committees**

Article 6 of the proposed implementing Regulation provides for the establishment of monitoring committees. The COR considers it vital that the local and regional authorities directly concerned be represented on these committees.

## 2.11. Annual report

A list of information to be included in the annual report is annexed to the proposed implementing Regulation. The COR considers that the local, regional and inter-regional impact of projects should also be included in this list.

Done at Brussels, 5 April 1994.

*The Chairman*  
*of the Committee of the Regions*  
Jacques BLANC

(1) OJ No C 39, 9. 2. 1994, p. 6-12.

(2) OJ No L 79, 1. 4. 1993, p. 74.

(3) OJ No C 39, 9. 2. 1994, p. 9.

(4) OJ No L 193, 31. 7. 1993, p. 1.