



Key points of NGOs in the discussion on financing the TEN-T in the next EU –Financing Period from 2007-2013¹

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In recent years the discussion about the TEN-T has picked up speed. We, T&E, Friends of Earth, BUND Germany and CEE Bankwatch Network have on many occasions voiced concerns regarding the economical, social and environmental impact of the priorities that are attached to the development of the network. Some of the concerns were taken into account in the Decision 884/2004/EC² of the European Parliament and of the Council.

We expect that some others of our concerns will be considered in the new regulation for the EU financial aid for the TEN-T development.

This briefing proposes a range of amendments for the new regulation that aim to ensure:

- 1) contribution to the implementation of the **Community Transport policy**;
- 2) improved **economical, social and environmental benefits** from the development of the TEN-T coming from the enforcement of the Sustainable Development Strategy and the Lisbon process
- 3) coherence with other **Community policy** and compliance with the **community legislation**;

We would like to acknowledge the need for investments in the transport sector providing real benefits to the citizens and the economy such like building and up-grading new infrastructure mainly in the new Member States and cross boarder sections. For example Bratislava and Vienna are neighbors but poorly linked by public transport. Also between Linz and Prague, public transport on the existing rail link takes ages in pretty miserable conditions. In Poland is planned closure of one third of the existing rail network because there is not enough money to up-grade them. All these are fields for investments of public money that would possibly make more sense and give more benefits to the citizens than a few prestigious TEN links.

1) Contribution to the **Community Transport Policy**

We consider the implementation of the objectives under the White Paper on Transport as crucial to putting the transport sector on the sustainable track. The White Paper picks up the Gothenburg Strategy in its emphasis on the need to decouple transport and economic growth. To that end, it aims to: 1) shift the balance between modes of transport, 2) eliminate bottlenecks, 3) place users at the heart of transport policy and 4) manage the globalisation of transport.

¹ COM(2004) 475 final 2004/0154 (COD) Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL determining the general rules for the granting of Community financial aid in the field of the trans-european transport networks and energy and amending Council Regulation (EC) n° 2236/95

² Decision 884/2004/EC of the European Parliament and of the Council of 29 April 2004 amending Decision 1692/96/EC on Community guidelines for the development of the tran-European transport network

We are concerned about the imbalanced status of the implementation of the 60 measures combining infrastructure charging, revitalisation of alternative modes of transport and investments in the TEN-T which are proposed by the White Paper to achieve these aims. Therefore, Community aid under the new regulation should be allocated only for projects that are part of a comprehensive program involving fiscal and regulatory measures to support interoperability and intermodality. Especially the question of infrastructure charging needs to be addressed. Community aid under the TEN-T financing regulation should not be granted until the member states agree to an efficient and sustainable charging legislation, based on the “user-pays” and “polluter-pays” principles..

The National Transport policies should be subject to the Strategic Environmental Assessment as pointed out in the art.8³ of Decision 884/2004/CE. The Commission should carry out an assessment of the quality of the SEA procedure and consideration of the all relevant alternatives when deciding about the financial assistance for proposed projects.

2) improved economical, social and environmental benefits from the development of the TEN-T

We consider that the EU financial aid for transport sector development could and should leverage bigger economical, social and environmental results. Benefits expected by the Commission are highly questionable and are no source for enthusiasm even if they indeed are met. For example: the Commission projects a 4% reduction of the CO2 emissions while the transport sector has increased its emission by 22% between 1990 and 2002.

The own Extended Impact Assessment of DG TREN on the TEN indicates that travel time benefits of all priority projects together are only 4 % of their costs. Compared with other projects this figure is very low and reflects that many of the TEN-T priority projects are very unviable.

Quite a few internationally well acknowledged studies⁴ and high-level events⁵ demonstrate that contribution of the infrastructure investments on employment is limited or even negative, and putting more resources into education and training is likely to offer better returns than transport infrastructure investment. A valuable option could be some of the proposed TEN-T budget of 20, 4 billion to redirected towards programmes devoted to support sustainable modes of transport that are highly are needy. (the proposed financing for Marco Polo is 740 million Euro for the 2007-2013 budget.)

Therefore, we fear that the objectives used to promote the TEN-T projects cannot be met and would like to **ask for detailed and solid justification of the project benefits**. The projects applying for EU assistance should be subject to thorough independent **cost-benefits analyses**. In order to avoid intentionally flawed analysis the assessment should be subject to public scrutiny preferably by the European Court of Auditors⁶. The information regarding

³ Art.8 an environmental assessment of the plan and programs leading to such projects, especially where they concern new routes or other important nodal infrastructure development shall be carried by the Member States pursuant to Directive 2001/42/EC of the European parliament and the Council of 27 June 2001 on the assessment of the effects of certain plans and programs on the environment.

⁴ US transportation research board concludes in 1997, LASON project <http://www.wt.tno.nl/iason/>

⁵ European Committee of the Ministers of Transport's round table on transport and economic development concluded in 2001

⁶ http://www.eca.eu.int/index_en.htm



economical, social and environmental aspects should be made publicly available at the earliest possible stage. The interested and affected citizens should have possibility to participate in the projects development from the very first planning stages.

We strongly object to the Commission's plan of reserving 1 billion. € of the **TEN-T budget for loan guarantees** to cover post construction risks in projects with a lower return rate than expected as proposed in Art.7.1c of the regulation as well as in the Commissions Communication COM/2005/0076 final from March 7th 2005. Public guarantee of the post construction risk as defined in the regulation contain significant incentives for overestimated forecasts and inflated economical benefits from the project. Following the transport investments will became attractive for the public capital but at the expenses of the taxpayers. Therefore we consider that post construction phase risk should not be in the scope of the Community support. Private investments must be made entirely at private risk, with no detrimental consequences for the taxpayer.

Co-funding rates and overall budget must remain at current status. The co-funding rates proposed by the commission spur the development of projects with unfavourable cost-benefit ratios and questionable environmental impacts, as the risk is the lower for the member state the higher the co-funding is. The proposal is disrespecting the decision of the parliament and of the council concerning the guidelines for the TEN-T where co-funding rates of 10 resp. 20 percent have been installed. Only low co-funding rates ensure a high responsibility on the side of the member state.

3) coherence with the other **Community policy** and compliance with the **community legislation**

We find particularly worrisome that the development of the TEN-T as projected in the new regulation goes inconsistently with the Community commitments for protection of biodiversity and development of the NATURA 2000 network. Taking into account the premature stage of the NATURA 2000 network development, especially in the new Member states, we consider that the new regulation should explicitly mention implementation of the precautionary principles for protection of the sites that have features to become part of the NATURA 2000 Network.

The enforcement of the EU legislation should be condition for the receiving EU financial support as its requested in the preamble of the Decision 844/2004/CE. The European Commission, notwithstanding of the move of decentralization of the management of the EU aid, should remain in the position to hold / or terminate disbursement of the Community funding for the projects that violates and would violate EU legislation.

The European Council and the European Parliament also must remain involved in all decisions. The proposed Comitology procedure (Art. 7.3) by a consultative committee (Art. 17.1-2) in order to ensure "the rapid treatment of files" is undemocratic. The extension of the reporting period of the commission from one to three years is a threat to transparency and contradicts art 23.11⁷. Considering that the commission wishes to speed up the construction processes for the TEN-T it is essential that other institutions remain involved in these

⁷ with Art. 23.11 of the TEN-T guidliness: "Each year the Com shall present a report to the EP etc..." as amendment to Regulation 2236/95.

processes. We recommend that Parliament take a strong stance on public involvement in the development of the network as well as the installation of thorough ex-ante and ex-post evaluations and of a thorough and well-funded monitoring of the implementation of the regulation and of the guidelines for the development of the TEN-T. The monitoring should especially take account of the implementation of the SEA directive as well as of the provisions granted by the Århus-Convention.

The suggested amendments to the new regulation:

Requests, Eligible Actions and Types of Aid

[~~delete:~~ Art. 2.7 Post construction phase risks: Risks occurring in the first years following the end of construction due to specific factors and involving reduced receipts in use of income relative to forecasts.]

Eligibility of Projects

Art. 3.1 Only projects of Common interest, identified in the framework of the Decision 1692/96/CE amended by Decision 844/2004/CE and n. 1229/2003/CE can benefit from Community financial support under this Regulation.

NEW Art. 3.2 Eligibility is subject to project inclusion in national programme for development of the transport that clearly indicates national contribution for achievement of the objectives in the Transport White Paper and is subject to Strategic Environmental Assessment according to directive 2001/42/EC.

Selection of Projects

Art. 5.1 Project of common interest shall be awarded Community aid in relation to their contribution to the objectives and the priorities defined in the Transport White paper and in the framework of decision 1692/96/CE amended by Decision 844/2004/CE and n. 1229/2003.

NEW Art 5.1 (a) Project selection will be made on the basis of independent cost-benefits analyses. The cost benefit analyses will be subject of public scrutiny by the European Court of Auditors.

NEW Art. 5.2 (d) the projects that are developed in cooperation with the interested and affected public in respect of the best practices on access to information and Environmental Impact Assessments procedure as envisaged in the Aarhus Convention ad Commission guidelines on the issue.

Types of Aid

Art. 6 Community financial aid covers studies and works [~~delete:~~ risks which occur after the construction phase]

Forms of Support

[~~delete:~~ Art. 7.1 (c) Loan guarantees to cover risks after the construction phase.]

Art. 7.2 (i) For Priority projects in the transport domain, a maximum of 10% of the total eligible costs of the works; exceptionally, trans-frontier sections of projects included in the



TEN-T programme can benefit from a maximum grant rate of 20% of total eligible costs, provided that they are started before 2010 and that the Member States concerned have presented a plan to the Commission giving all the guarantees necessary regarding the financial support from the Member State and the timetable for the implementation of the project. This rate shall be adapted in relation to the benefits received by the other Member States;

Art. 7.2 (iii) For other projects in the domain of transport: a maximum of 5% of the total eligible costs of the works; exceptionally, for projects linked to the deployment of interoperable systems, of safety and security, the rate may reach a maximum of 20%, adjusted to relation to the benefits to other Member States, of the total eligible costs of the works. to relation to the benefits to other Member States, of the total eligible costs of the works)

Compatibility and Coordination with other Community Policies

NEW Art. 9.3 EU aid is conditional of the strict compliance of the project with the provisions of the “Birds” and “Habitats” Directives and WFD especially with the requirements for precautionary principle.

Members states responsibility

Art. 14.2 The Member States shall undertake the monitoring and control of projects in close cooperation with the Commission and concerned public, and certify the reality and the conformity of the expenditure incurred under the project or the part o the project. The Member State may request the participation of the Commission for ‘on site’ visits.

Cancellation, reduction, suspension and discontinuance of assistance

NEW Art. 15.3 If a project or part of a project is deemed to be in violation with the Community legislation the Commission shall undertake an appropriate examination of the case and in particular request Member states or beneficiary to present their observation within a specific time.

Art.15.4 Following the examination provided for by paragraph 2) and 3) the Commission can reduce, suspend or cancel the aid for the project in question if any irregularities have been revealed or any of the conditions attached to the grant of aid have not been respected, notably when any important modifications have been introduced concerning the nature, or the means of undertaking the project.

Information and Publicity

NEW(second paragraph) Art. 19.2 Members states should make publicly available all the information concerning economical, social and environmental benefits/impacts of the projects receiving or applying for Community assistance under this regulation.