COMMISSION DECISION

of 7 May 1997

on the approval of the single programming document for Community structural assistance in the western part of the *Land* Berlin concerned by Objective 2 in the Federal Republic of Germany

(Only the German text is authentic)

(97/694/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 4253/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments [1], as last amended by Regulation (EC) No 3193/94 [2], and in particular Article 10 (1) last subparagraph thereof,

After consultation of the Advisory Committee on the Development and Conversion of Regions and the Committee pursuant to Article 124 of the Treaty,

Whereas the programming procedure for structural assistance under Objective 2 is defined in Article 9 (6) to 9 (10) of Council Regulation (EEC) No 2052/88 of 24 June 1988 on the tasks of the Structural Funds and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments [3], as last amended by Regulation (EC) No 3193/94; whereas however the last subparagraph of Article 5 (2) of Regulation (EEC) No 4253/88 foresees that in order to simplify and to speed up programming procedures, Member States may submit in a single programming document the information required for the regional and social conversion plan referred to in Article 9 (8) of Regulation (EEC) No 2052/88 and the information required at Article 14 (2) of Regulation (EEC) No 4253/88; whereas Article 10 (1) last subparagraph of Regulation (EEC) No 4253/88 foresees that in that case the Commission adopt a single decision in a single document covering the points referred to in Article 8 (3) and the assistance from the Funds referred to in the last subparagraph of Article 14 (3);

Whereas the Commission has established, by Decision 96/472/EC [4], the list of declining industrial areas concerned by Objective 2 for the programming period from 1997 to 1999;

Whereas the global maximum allocation foreseen for the assistance of the Structural Funds for the present single programming document is composed of resources coming from the indicative allocation of Structural Fund commitment appropriations for the period 1997 to 1999 under Objective 2 resulting from Commission Decision 96/468/EC [5] and from unused appropriations of ECU 5,186 million of the corresponding single programming document covering the period 1994 to 1996, pursuant to Commission Decision C(96) 3053 of 20 November 1996;

Whereas the German Government has submitted to the Commission on 8 August 1996 the single programming document as referred to in Article 5 (2) of Regulation (EEC) No 4253/88 for the western part of the *Land* Berlin; whereas this document contains the elements referred to in Article 9 (8) of Regulation (EEC) No 2052/88 and in Article 14 (2) of Regulation (EEC) No 4253/88; whereas expenditure under this single programming document is eligible as from that date;

Whereas the single programming document submitted by this Member State includes a description of the conversion priorities selected and the applications for assistance from the European Regional Development Fund (ERDF) and the European Social Fund (ESF) as well as an indication of the planned use of the assistance available from the European Investment Bank (EIB) and the other financial instruments in implementing the single programming document;

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[1] OJ L 374, 31. 12. 1988, p. 1.
[2] OJ L 337, 24. 12. 1994, p. 11.
[3] OJ L 185, 15. 7. 1988, p. 9.
[4] OJ L 193, 3. 8. 1996, p. 54.
[5] OJ L 192, 2. 8. 1996, p. 29.

Whereas, in accordance with Article 3 of Regulation (EEC) No 4253/88, the Commission is charged with ensuring, within the framework of the partnership, coordination and consistency between assistance from the Funds and assistance provided by the EIB and the other financial instruments;

Whereas the EIB has been involved in the drawing up of the single programming document in accordance with the provisions of Article 8 (1) of Regulation (EEC) No 4253/88, applicable by analogy in the establishment of the single programming document; whereas it has declared itself prepared to contribute to the implementation of this document in conformity with its statutory provisions; whereas, however, it has not yet been possible to evaluate precisely the amounts of Community loans corresponding to the financial needs;

Whereas Article 2 second subparagraph of Commission Regulation (EEC) No 1866/90 of 2 July 1990 on arrangements for using the ecu for the purpose of the budgetary management of the Structural Funds [1], as last amended by Regulation (EC) No 2745/94 [2], stipulates that in the Commission decisions approving a single programming document, the Community assistance available for the entire period and the annual breakdown thereof shall be set out in ecus at prices for the year in which each decision is taken and shall be subject to indexation; whereas this annual breakdown must be compatible with the progressive increase in the commitment appropriations shown in Annex II to Regulation (EEC) No 2052/88; whereas indexation is based on a single rate per year, corresponding to the rates applied annually to budget appropriations on the basis of the mechanism for the technical adjustment of the financial perspectives;

Whereas Article 1 of Council Regulation (EEC) No 4254/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the European Regional Development Fund [3], as amended by Regulation (EEC) No 2083/93 [4], defines the measures for which the ERDF may provide financial support;

Whereas Article 1 of Council Regulation (EEC) No 4255/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the European Social Fund [5], as amended by Regulation (EEC) No 2084/93 [6], defines the measures for which the ESF may provide financial support;

Whereas the single programming document has been established in agreement with the Member State concerned through the partnership defined in Article 4 of Regulation (EEC) No 2052/88;

Whereas certain measures planned under this single programming document include the part-financing of aid schemes which have not yet been approved by the Commission; whereas the financial commitments should be reduced by the amounts corresponding to the said measures until the aid schemes are approved by the Commission;

Whereas the present assistance satisfies the conditions laid down in Article 13 of Regulation (EEC) No 4253/88, and so should be implemented by means of an integrated approach involving finance from more than one Fund;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities [7], as last amended by Regulation (EC, Euratom, ECSC) No 2335/95 [8], states that the legal commitments entered into for measures extending over more than one financial year must contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas it is appropriate to mention that this Decision is ruled by the provisions on the eligibility of expenditure laid down in the Annex to Commission Decision C(97) 1035/5 of 23 April 1997 modifying the decisions approving the Community support frameworks, the single programming documents and the Community initiative programmes in respect of the Federal Republic of Germany;

Whereas all the other conditions laid down for the grant of aid from the ERDF and the ESF have been complied with,

HAS ADOPTED THIS DECISION:

Article 1

The single programming document for Community structural assistance in the western part of the *Land* Berlin concerned by Objective 2 in the Federal Republic of Germany, covering the period 1 January 1997 to 31 December 1999, is hereby approved.

[1] OJ L 170, 3. 7. 1990, p. 36.
[2] OJ L 290, 11. 11. 1994, p. 4.
[3] OJ L 374, 31. 12. 1988, p. 15.
[4] OJ L 193, 31. 7. 1993, p. 34.
[5] OJ L 374, 31. 12. 1988, p. 21.
[6] OJ L 193, 31. 7. 1993, p. 39.
[7] OJ L 356, 31. 12. 1977, p. 1.
[8] OJ L 240, 7. 10. 1995, p. 12.

Article 2

The single programming document includes the following essential elements:

(a) a statement of the main priorities for joint action, their specific quantified objectives, an appraisal of their expected impact and their consistency with economic, social and regional policies in the Federal Republic of Germany;

the main priorities are:

1. improvement of the regional economic structure,
2. support for the industrial economy,
3. measures for improvement of the environment,
4. support for technological potential,
5. support for SMEs and for east-west cooperation;

(b) the assistance from the Structural Funds as referred to in Article 4;

(c) the detailed provisions for implementing the single programming document comprising:

— the procedures for monitoring and evaluation,

— the provisions on financial implementation,

— the rules for compliance with Community policies;

(d) the procedures for verifying additionality and an initial evaluation of the latter;

(e) the arrangements for associating the environmental authorities with the implementation of the single programming document;

(f) the means available for technical assistance necessary for the preparation, implementation or adaptation of the measures concerned.

Article 3

1. For the purpose of indexation, the annual breakdown of the global maximum allocation foreseen for the assistance from the Structural Funds is as follows:

ECU million (1997 prices)

1997	59,456
1998	61,851
1999	64,682
Total	185,989

2. To this global maximum allocation is added an amount of ECU 5,186 million not subject to indexation, resulting from unused appropriations of the corresponding single programming document covering the period 1994 to 1996.

Article 4

The assistance from the Structural Funds granted to the single programming document amounts to a maximum of ECU 191,175 million.

The procedure for granting the financial assistance, including the financial contribution from the Funds to the various priorities and measures, is set out in the financing plan and the detailed implementing provisions which form an integral part of the single programming document.

The national financial contribution envisaged, which is approximately ECU 192,895 million for the public sector and ECU 29,070 million for the private sector, may be met in part by Community loans, in particular from the EIB.

Article 5

1. The breakdown among the Structural Funds of the total Community assistance available is as follows:

— ERDF: ECU 123,289 million,

— ESF: ECU 67,886 million.

2. The budgetary commitments for the first instalment are as follows:

— ERDF: ECU 28,758 million

— ESF: ECU 21,701 million

In accordance with the rules laid down in Article 7, these commitments do not include the amounts relating to the aid schemes not yet approved by the Commission. The corresponding commitments will be made after the approval of the aid schemes concerned.

Commitments of subsequent instalments will be based on the financing plan for the single programming document and on progress in its implementation.

Article 6

The breakdown among the Structural Funds and the procedure for the grant of the assistance may be altered subsequently, subject to the availability of funds and the

budgetary rules, in the light of adjustments decided according to the procedure laid down in Article 25 (5) of Regulation (EEC) No 4253/88.

Article 7

This Decision is without prejudice to the Commission's position on the aid schemes in the measures UFP V (development priority 3.1) and ZÖWI/II (development priority 3.2), listed for that purpose in the single programming document. In accordance with Articles 92 and 93 of the Treaty, the aid schemes must be approved by the Commission and hence the financial commitments shall be reduced by the amounts corresponding to the said measures until the aid schemes are approved by the Commission. The contributions to the aids for integration under the measures 3.5.2.1.2. UFP, labour-market policy measures and 3.5.2.3.2 SME, labour-market policy measures shall be granted, until the end of the current examination of the compatibility of these aids, only in the strict compliance with the *de minimis* rule [1].

Article 8

The Community aid concerns expenditure on operations under the single programming document which, in the Member State concerned, are the subject of legally binding commitments and for which the requisite finance has been specifically allocated no later than 31 December 1999. The final date for taking account of expenditure on these measures is 31 December 2001.

Article 9

The single programming document shall be implemented in accordance with Community law, and in particular Articles 6, 30, 48, 52 and 59 of the Treaty and the Community Directives on the coordination of procedures for the award of contracts.

Article 10

This Decision is ruled by the provisions laid down in the Annex to Decision C(97) 1035/5.

Article 11

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 7 May 1997.

For the Commission

Monika WULF-MATHIES

Member of the Commission

[1] OJ C 68, 6. 3. 1996, p. 9.