OPINION

THE REGIONAL STATE AID GUIDELINES FOR 2014-2020

THE COMMITTEE OF THE REGIONS

− considers that the RSA mechanism is a key instrument for achieving the goals of economic, social and territorial cohesion;
− calls on the European Commission to make its process of modernising state aid part of a more comprehensive European strategy for growth, cohesion and jobs;
− considers RSA to be a resource available to States to counter the long-term effects of the crisis by supporting the economic dynamism of regions in difficulty;
− urges the Commission to offset the effects of the crisis, by raising firstly the ceilings for aid and secondly the percentage of the population covered by this type of aid;
− believes that the new restrictions imposed on aid to large enterprises, according to the Community definition of the term, are not justified at a time of economic crisis and calls on the Commission to raise the current threshold for the definition of small and medium enterprises (SMEs);
− also demands closer coordination of state aid rules with other EU policies, especially cohesion policy, and in this regard calls for the RSA reform to be harmonised with the creation of the category of transition regions;
− suggests that in its zoning criteria, the Commission take into account the natural, geographic or demographic handicaps faced by certain regions.
Rapporteur

Jean-Paul Denanot (FR/PES), President of the Limousin Region

Reference document

I. POLICY RECOMMENDATIONS

THE COMMITTEE OF THE REGIONS

General comments

1. is pleased to note that the reform of regional state aid guidelines (RSAG) fits into a broader context of recasting and simplifying EU rules on state aid;

2. stresses the importance for the contributors, which include local and regional authorities, and also for the beneficiaries, of the rules being based on clear, straightforward and understandable principles and, following on from its opinion (ECOS-V-035) on the Commission Communication on Revision of the guidelines for regional State aids\(^1\), reiterates its encouragement to the European Commission to go further in the process of modernisation and simplification by focussing on monitoring aid that has a significant impact on the internal market;

3. considers that, given the current economic and social crisis, public investment is essential as part of an overall strategy for growth, and that regions must have sufficient flexibility within the State Aid regime to improve their competitiveness, create jobs and emerge from the current crisis;

4. also stresses the key role that the European Commission has played since 2007 in addressing the effects of the crisis, showing considerable capacity to react and to act by establishing temporary frameworks. The Committee of the Regions urges the Commission to continue its efforts by taking account of the severity of the economic situation when drafting its forthcoming RSA guidelines, and emphasises that support to enterprise, large enterprises and SMEs, is fundamental to all regions undergoing economic re-structuring including those covered by Art 107(3)(c);

5. notes that according to the provisions of the Treaty, RSA are justified when restricted to certain regions and are specifically designed to develop these regions\(^2\). The purpose of this specific aid is, in tandem with cohesion policy, to support the most vulnerable regions in their efforts to attain the level of economic wellbeing achieved by other European regions, enabling them to play their part in achieving the objective of economic, social and territorial cohesion in the European Union;

\(^1\) COM(2012) 209 final.
\(^2\) Article 107(3)(a) and (c) of the Treaty on the Functioning of the European Union.
6. underlines the significance of RSA as a core factor in the establishment, location and development of enterprises, including large enterprises, in disadvantaged regions and highlights that these funds are absolutely vital, in addition to other types of aid (such as for RDI, environmental aid, etc.), in promoting investment in such regions;

7. supports the process of relaxing the rules already started by the European Commission through its publication of the General Block Exemption Regulation (GBER)\(^3\), Article 13 of which concerns regional aid;

8. emphasises its desire to see the de minimis ceilings laid down in Regulation (EC) No 1998/2006 increase from EUR 200,000 to EUR 500,000 over a period of three fiscal years. Similarly, the de minimis ceilings in the agriculture and fisheries sectors should be revised proportionately, together with the net default rate, which is considered the worst case scenario for the EU’s guarantee schemes;

9. emphasises that it would be contradictory to include state aid for services of general economic interest (SGEI) in the calculation of ceilings for the intensity of regional aid, as such aid is a priori considered compatible with the Treaty and is at the same time eligible for co-financing under the Structural Funds\(^4\). Including state aid for SGEI might dissuade Member States from funding state aid for this purpose. Therefore calls on the Commission to consider excluding state aid for SGEI from the calculation of ceilings for the intensity of regional aid;

\(RSA\) designed to benefit cohesion, growth and jobs

10. believes that better targeted State aid must pursue four specific objectives, namely:

- helping to reduce imbalances between regions;
- compensating for market failures without distorting competition;
- stimulating business competitiveness in the regions;
- supporting investment in areas affected by the economic and financial crisis;

11. notes that by targeting disadvantaged and isolated regions, the RSA are actively promoting the harmonious and balanced development\(^5\) of the European Union without breaching competition rules;

12. considers that the RSA mechanism is a key instrument for achieving the goals of economic, social and territorial cohesion. It plays a role in the economic development of struggling

\(\text{\textsuperscript{3}}\) General Block Exemption Regulation of the European Commission (800/2008) of 6 August 2008.

\(\text{\textsuperscript{4}}\) In accordance with the decision of 20.12.2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest.
regions by allowing public authorities to support companies located in these areas and thus helping to rebalance the distribution of wealth and investment among Europe's regions;

13. calls on the European Commission to make its process of modernising state aid part of a more comprehensive European strategy for growth, cohesion and jobs;

14. in this context also wishes to highlight that regions within the European Union often compete with third countries for Foreign Direct Investment (FDI) and thus considers that the review of the RSAG must recognise the positive benefits for the EU economy in facilitating FDI and adequately accommodate international competition for investment;

15. emphasises the importance of linking reform of the RSA guidelines with the objectives of the Europe 2020 strategy. In this regard, the CoR notes the value attached to business competitiveness among the thematic objectives of the Common Strategic Framework and considers that it would be paradoxical on the one hand to reduce public intervention capacities to support businesses, while on the other encouraging local and regional authorities to support projects to develop the same businesses through the use of structural funds;

16. also requires closer coordination of state aid rules with other EU policies, especially cohesion policy, but also policies on industry, research and innovation and even the internal market. The Committee of the Regions would point out that, under the terms of the Treaty, the completion of the internal market and therefore, state aid regulations, must take into account the objectives for cohesion throughout the EU and help achieve them;

17. believes that certain spheres such as the social and inclusive economy, because of their contribution to economic activity and social cohesion in disadvantaged areas, should receive differentiated treatment, regardless of issues concerning regional classification, and should be covered by a specific framework building on the guide to social innovation that the European Commission is due to put forward;

**The role of local and regional authorities in RSA**

18. notes that, although the Treaties confer exclusive jurisdiction on the Commission for drawing up rules on the compatibility of state aid, regional state aid, as its name implies, is a tool designed to promote regional development. The Committee is therefore disappointed not to have been consulted by the European Commission when the first drafts were sent out to the Member States and considers it essential that the Committee be given the opportunity to state its views on topics that have such substantial implications for the regions. The Committee of the Regions urges the Commission to take into account the concerns and recommendations made in this opinion when drawing up its future guidelines;

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5 Article 175 of the Treaty on the Functioning of the European Union.
19. further recalls that most local and regional authorities with powers in the field of economic development by means of economic policies and their role of supporting companies, are in a position to assess the impact of measures adopted at the European level, due to their knowledge of the local economic fabric and their closeness to economic and social stakeholders. Because local and regional authorities have few resources with which to challenge the European Commission's decisions on state aid, the Committee of the Regions believes that the Commission should involve them from the outset in the process of drawing up RSA rules;

20. welcomes the public consultation launched by the European Commission on 14 January 2013 to prepare for the revision of the new guidelines for 2014-2020. This public consultation should, in particular, allow for the involvement of local and regional authorities, so as to bring state aid rules more into line with the needs of Europe's regions and hence make them more transparent, which would consequently increase legal certainty for both contributors and beneficiaries, respecting the principle of multilevel governance;

21. considers that a balance must be struck between establishing the European competition rules necessary for the smooth operation of the internal market and understanding the real impact on the market of aid granted at the sub-national level;

22. furthermore draws the Commission's attention to the fact that many local and regional authorities have, during the crisis, put in place recovery plans or aid mechanisms which, if they are to be economically efficient, must be coordinated with the state aid authorised by the Commission and in particular with RSA, in order to remain fully relevant;

23. calls for the RSA guidelines to be implemented at an appropriate level and believes that the national level should make use of a regional partnership involving all sub-national authorities when developing and adapting zoning;

RSA zoning rules

24. considers RSA to be a resource available to States to counter the long-term effects of the crisis by supporting the economic dynamism of regions in difficulty and therefore strongly rejects any reduction from the current RSAG in the capacity of public intervention for businesses, which is an important driver of economic development and job creation in the regions;

25. urges the Commission to offset the effects of the crisis, by raising firstly the ceilings for aid and secondly the percentage of the population covered by this type of aid, in accordance with the estimates given by the Commission in the regional state aid guidelines for 2007-2013 (45.5% based on EU-27, cf. footnote 15, 2006/C 54/08);
26. states its commitment to maintaining a balanced RSA zoning scheme for the 2014-2020 period, in order to avoid excessive disparities between EU regions, in particular between the areas covered by Article 107(3)(a) and those covered by Article 107(3)(c), to prevent the risk of relocation within the European Union;

27. asks the European Commission to provide for a transitional arrangement in the form of a safety net to ensure that regions that were able to access this type of aid in the previous period and which will no longer meet the criteria set out in the forthcoming guidelines, are not suddenly excluded from the zoning scheme;
points out that the European Commission should make special provision in the RSA guidelines for EU Member States in serious economic and financial crisis and supported by the European Financial Stabilisation Mechanism, to ensure coherence among all the European Union's economic policies;

28. welcomes the European Commission's proposal to automatically enable regions adjacent to areas covered by Article 107(3)(a) to be taken into account in the category of areas covered by Article 107(3)(c);

29. observes that RSA zoning is linked to the distinction made under cohesion policy between convergence regions (with per capita GDP lower than 75% of the EU average) and competitiveness regions (with per capita GDP higher than 75% of the EU average). With regard to the Commission's new proposals for cohesion policy and in particular the creation of a new category of transition regions whose GDP is between 75% and 90% of the EU average, the Committee of the Regions calls for the RSA reform to be harmonised with the creation of this new category and proposes a simplified system, in which all transition regions would be considered to be predefined areas covered by Article 107(3)(c). The Committee regrets that in the draft presented by the Commission on 14 January 2013, only those transition regions that were previously covered by Article 107(3)(a) are considered to be predefined areas under Article 107(3)(c). It therefore urges the European Commission to amend its draft to ensure that it is consistent with the proposed general regulation for the Structural Funds and to prevent areas belonging to the same category and experiencing similar economic difficulties from being treated unequally;

30. draws the Commission's attention to the specific situation of the outermost regions, recognised in Article 107(3)(a), and reiterates the need for a more flexible approach tailored to reflect their specific features. The Committee of the Regions considers that these regions, due to their remoteness from the European Union's internal market and their proximity to other markets, must continue to be able to allocate operating aid to businesses, which is not progressively reduced and not temporary, and claim the same level of aid they have traditionally been allocated. As regards investment aid, the Committee believes that the bonus to the outermost regions should be kept unchanged, given that their situation, on which the bonus is based, is structural and permanent in nature;
31. suggests that the Commission also considers the list of regions with ‘special provisions’ that will be established within the agreed MFF to ensure greater consistency between these Cohesion Policy provisions and the RSAG;

32. questions the **relevance of the indicators** selected by the European Commission to develop RSA zoning (GDP and the unemployment rate) and recommends that consideration be given to other methods for authorising and monitoring aid. Local and regional authorities should be fully involved in these discussions. The Committee of the Regions has already proposed a number of possible approaches, in its opinion entitled "Measuring Progress – GDP and beyond";

33. suggests in particular that in its zoning criteria, the Commission take into account the **natural, geographic or demographic handicaps** faced by certain regions, including:

   - rural areas;
   - areas undergoing industrial transition;

   - areas with serious and permanent natural demographic handicaps such as:
     - regions with very low or low population density, as defined in Article 111(4) of the amended proposal for a regulation on the Common Strategic Framework funds,
     - island regions,
     - cross-border regions,
     - mountain regions,

   - regions facing demographic imbalances between young people and the elderly and between the active and inactive populations, because of the emigration of young people and the general ageing of the population, which contributes to limited development opportunities;

34. points out that the RSA zoning requirements are not appropriate for rural areas, in terms of the minimum size and extent of the zones. These areas do not benefit from the specific treatment given to low-density areas but consequently cannot meet the population requirements set out in the texts. The Committee of the Regions calls for these requirements to be relaxed in order to reflect the specific features of the EU's rural areas, either by setting more relevant population ceilings, or by applying these two criteria in different way;

35. wishes to go further, by calling for a new discussion of RSA zoning criteria, encouraging a more regional approach that would better target the specific regional characteristics;

**Recommendations for drawing up future RSA guidelines against the backdrop of crisis**

36. in light of the various points mentioned above and in particular the context of economic and social crisis, considers that due to its positive effects on job creation and economic activity, the RSA mechanism is now more necessary than ever; welcomes the Commission's intention to foresee a mid-term review of the regional maps in 2016;
notes that in its current wording, Article 107(3)(a) of the Treaty refers to the areas "where there is serious underemployment". The Committee of the Regions proposes that account also be taken of the criterion of unemployment rates when establishing the areas to be covered by this article, in addition to the criterion of GDP, given the worsening employment situation in many Member States;

considers that the method of deciding on category c) zones must be based on the European reference average regarding the calculation of criteria for comparing GDP and unemployment rates. This would more accurately reflect disparities in development between Member States and thus target the most vulnerable regions in countries with high rates of unemployment and lower GDP;

believes that the new restrictions imposed in the areas covered by Article 107(3)(c) on aid to large enterprises, according to the Community definition of the term, are not justified, especially at a time of economic crisis. The Committee of the Regions would emphasise that this category covers not only large enterprises with internationalised capital and global markets but also a large number of local and family businesses whose labour requirements take them over the threshold of 250 employees. This category also covers small locally-established businesses which, as a result of European rules on consolidation\(^6\), can cross the threshold to become a large enterprise. By removing any possibility of supporting them in the areas covered by Article 107(3)(c), the European Commission is threatening jobs and economic activity in the regions in greatest need, which are struggling to retain this type of company within their borders;

notes, moreover, the risks of relocation, both within and outside the European Union, which are very real for the regions as a result of the ban on aid to large enterprises. Such businesses could decide to leave the areas covered by Article 107(3)(c) for areas covered by Article 107(3)(a) or for non-EU States if aid levels and rates were to fall;

welcomes the safeguard clause proposed by the European Commission in its draft of 14 January 2013, which would oblige large companies to maintain the investment and the jobs created in the area where the aid was awarded for a period of 5 years, or 3 years in the case of SMEs;

suggests the inclusion of a clause on the full recovery of aid, modelled on Article 57 of the current General Regulation of the Structural Funds. This recovery clause would apply during the five years following the grant of the aid if the nature of the co-financed operation or the conditions for implementing it were affected, if the operation were to confer an undue advantage on a firm or public body, if the ownership of an item of infrastructure were to change or if a productive activity were to cease.

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The Member States and the Commission should ensure that undertakings which are or have been subject to a procedure of recovery following the transfer of a productive activity within a Member State or to another Member State do not benefit from a contribution from the Structural Funds;

43. calls on the European Commission to introduce a mechanism that takes into account ex ante any negative external effects that may result from RSA in terms of significant job losses in existing sites within the EU, not only in the comparative assessment that the Commission carries out upon notification, and now only for major investment projects (2009/C 223/02, p. 54), but also in the context of the general Block Exemption Regulation;

44. calls on the Commission to raise the current threshold for the definition of small and medium enterprises (SMEs) in order to keep the RSA mechanism in place for businesses playing an active role in creating growth and jobs in the regions concerned and to participate in creating a strong and structured European entrepreneurial fabric with strong local links and which cannot be relocated, the better able to meet the challenges of competitiveness, innovation and internationalisation, which are goals set by the 2020 Strategy;

45. calls on the Commission to create, as it has agreed for the agri-food industry, a new category of mid-sized enterprise, employing between 250 and 750 workers and with a turnover of under EUR 200 million, located between SMEs and large enterprises, in order to promote the development of our SMEs. The Committee of the Regions also calls for a discussion on taking account of mid-cap enterprises (MCEs) formed by SMEs that have grown and employing between 250 and 5,000 workers. It also proposes that mid-sized enterprises and MCEs receive appropriate rates of aid, which are higher than those for large enterprises and lower than those for SMEs;

46. notes that in order to take into account the key feature of a region when allocating RSA, consolidation rules⁷ should not apply to regions eligible for such aid. The Committee of the Regions believes that companies should be regarded as autonomous enterprises, distinct from linked enterprises and partner enterprises;

47. wishes to point out that the rates of aid proposed for RSA areas for 2014-2020 are similar to the rates of aid for SMEs currently provided for by the GBER⁸, which might negate the specific nature of RSA. The Committee of the Regions therefore urges that the level of aid provided by RSA guidelines for the period 2007-2013 at least be maintained and even considers that at a time of economic crisis, they should be increased;

48. believes that a higher rate should be provided for, in order to stimulate support for investment and jobs in the new category of transition regions, given their disparities.

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indicates that businesses located in RSA areas can only receive aid for a proportion of the investment they make or the jobs they create, corresponding to the increase in the business’s activity to boost regions' economic dynamism. The Committee of the Regions proposes that company takeovers and the modernisation of production facilities, the most common practices in times of crisis, are made eligible by the RSA guidelines;

opposes tougher rules to demonstrate the incentive effect of RSA allocated to investment projects, regardless of their scale or the size of the company that carries them out. The Committee of the Regions stresses that in the context of RSA rules the incentive effect of aid relates to the difficult situation now facing the assisted regions in which the investment would not otherwise be carried out without the aid;

supports the Commission's proposal to make aid eligible for businesses in the shipbuilding sector, as its situation no longer justifies the exclusion decided on at a time when this sector was experiencing a serious overcapacity crisis. On the other hand, the Committee of the Regions does not agree with the Commission’s proposal to make regional aid for businesses in the steel and synthetic fibre sectors incompatible with the internal market. The Committee of the Regions stresses that their situation no longer justifies the exclusion decided on at a time when these sectors were experiencing a serious overcapacity crisis;

advocates the establishment of a more flexible mechanism capable of adapting rapidly to economic change, instead of the basic revision currently carried out every seven years, which does not make it possible to deal with unexpected crises, which can be devastating to a region's economic fabric. The Committee of the Regions proposes, for example, that a zoning pool be set up at the regional level and reallocated in line with economic developments and in consultation with the sub-regional authorities;
proposes that an overall assessment of the RSA mechanism at European level be carried out during the reference period to ensure that there are no knock-on effects or relocations within the European Union. If these do occur, administrative sanctions such as repayment of the aid could be considered.

Brussels, 1 February 2013

The President
of the Committee of the Regions

Ramón Luis Valcárcel Siso

The Secretary-General
of the Committee of the Regions

Gerhard Stahl
### II. PROCEDURE

<table>
<thead>
<tr>
<th><strong>Title</strong></th>
<th>The regional state aid guidelines for 2014-2020</th>
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<tbody>
<tr>
<td><strong>Legal basis</strong></td>
<td>Article 307(4) TFEU</td>
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<tr>
<td><strong>Procedural basis</strong></td>
<td>Rule 42 of the Rules of Procedure</td>
</tr>
<tr>
<td><strong>Date of Bureau decision</strong></td>
<td>8 October 2012</td>
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<tr>
<td><strong>Commission responsible</strong></td>
<td>Territorial Cohesion Policy (COTER)</td>
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<tr>
<td><strong>Date adopted by commission</strong></td>
<td>7 December 2012</td>
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<tr>
<td><strong>Result of the vote in commission (majority, unanimity)</strong></td>
<td>By a majority</td>
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<tr>
<td><strong>Date adopted in plenary</strong></td>
<td>1 February 2013</td>
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<tr>
<td><strong>Previous Committee opinion(s)</strong></td>
<td>Revision of the guidelines for regional State aids Vicente Álvarez Areces (ES/PES), President of the Principality of Asturias (CdR 77/2005 fin)⁹</td>
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<tr>
<td><strong>Date of subsidiarity monitoring consultation</strong></td>
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