

Bruselas, 21 de mayo de 2019
(OR. en)

9189/19

**Expediente interinstitucional:
2018/0138(COD)**

**TRANS 326
CODEC 1057**

INFORME

De:	Secretaría General del Consejo
A:	Comité de Representantes Permanentes/Consejo
N.º doc. prec.:	8687/1/19 REV 1
Asunto:	Propuesta de Reglamento del Parlamento Europeo y del Consejo sobre la racionalización de las medidas para promover la finalización de la red transeuropea de transporte – Informe de situación

I. CONTEXTO Y CONTENIDO DE LA PROPUESTA

1. El 17 de mayo de 2018, la Comisión presentó al Parlamento Europeo y al Consejo la propuesta de referencia, que forma parte del tercer paquete «Europa en movimiento», concebido para hacer que la movilidad europea sea más segura, más limpia, más eficiente y más accesible.
2. El principal objetivo de la propuesta es simplificar las normas de concesión de autorizaciones y otros procedimientos reguladores, con el fin de facilitar la finalización de la red transeuropea de transporte (RTE-T). Asimismo, tiene por objetivo aportar una mayor claridad a los procedimientos que deben seguir los promotores de proyectos, en particular en lo que respecta a la concesión de autorizaciones, contratación pública y otros.

3. La propuesta pretende alcanzar su objetivo principal estableciendo:
- una autoridad competente única («ventanilla única»), encargada de todo el proceso, que actúe como punto de entrada único para los promotores de proyectos y otros inversores;
 - procedimientos integrados que den lugar a una decisión global;
 - y los plazos de un proceso en dos fases con un límite máximo de tres años.

II. TRABAJOS EN OTRAS INSTITUCIONES

4. En el Parlamento Europeo, se ha designado la Comisión de Transportes y Turismo como comisión responsable de este expediente y a Dominique Riquet (ALDE, FR), como ponente. El Parlamento votó sobre el informe y adoptó su posición en primera lectura el 13 de febrero de 2019.
5. El Comité Económico y Social Europeo emitió un dictamen en el pleno del 17 de octubre de 2018.
6. El Comité de las Regiones adoptó su dictamen el 7 de febrero de 2019.

III. SITUACIÓN DE LOS TRABAJOS EN EL CONSEJO

7. El Grupo «Transporte - Cuestiones y Redes Intermodales» inició sus trabajos en junio de 2018 con una presentación general de la propuesta y una evaluación de impacto de la misma. El Grupo examinó la propuesta en otras tres reuniones, que tuvieron lugar entre julio y octubre de 2018, y elaboró en consecuencia un informe¹ que presentó al Consejo el 3 de diciembre de 2018.
8. La Presidencia ha proseguido su labor y, entre febrero y mayo de 2019, ha consagrado seis reuniones al examen pormenorizado de este expediente sobre la base de textos transaccionales en evolución. Dichos textos transaccionales en general tenían la finalidad de aportar una mayor claridad y flexibilidad a una serie de disposiciones, a fin de que se tuvieran más en cuenta las especificidades de los procedimientos nacionales de concesión de autorizaciones, los cuales varían en gran medida de unos Estados miembros a otros.

¹ Doc. 14226/18.

9. En la reunión del Grupo del 10 de mayo, y a petición de todas las delegaciones, la Presidencia presentó un texto transaccional² para modificar la naturaleza jurídica de la propuesta, que pasa de ser un reglamento a una directiva. Con este texto transaccional se introduce una simplificación y flexibilidad considerables para que los Estados miembros puedan aplicar la mayoría de los procedimientos nacionales de concesión de autorizaciones que existen en la actualidad. La autoridad competente única se define como el principal punto de contacto para el promotor del proyecto y tendrá como función facilitar el procedimiento de concesión de autorizaciones, sin perjuicio de la competencia de otras autoridades que participen en el mismo. Por otra parte, el texto transaccional introduce un plazo global de cuatro años para la finalización del procedimiento de concesión de autorizaciones. Todos los Estados miembros consideraron el texto transaccional como un paso importante en la dirección correcta.
10. No obstante, hay una serie de cuestiones que requerirán más trabajo técnico. Las principales de ellas pueden resumirse como sigue:
- a) **Ámbito de aplicación (artículo 1):** El texto transaccional de la Presidencia se refiere a proyectos relativos a los corredores de la red transeuropea de transporte (RTE-T) y prevé la posibilidad de ampliar el ámbito de aplicación a otros proyectos relativos a la red básica y a la red global de la RTE-T. La formulación actual, que permite ampliar aún más el ámbito de aplicación, parece contar con el respaldo de la mayoría de las delegaciones. Sin embargo, algunas de las demás preferían que se limite el ámbito de aplicación únicamente a proyectos de índole transnacional, y otras sugirieron otras soluciones.
 - b) **Autoridad competente única (artículo 2, letra d), y artículo 5):** En el texto transaccional de la Presidencia, la función de la autoridad competente única se entiende que es actuar como «principal punto de contacto» para el promotor del proyecto y facilitar el proceso de concesión de autorizaciones. Algunas delegaciones pidieron más aclaraciones, en particular sobre la función, la responsabilidad y las tareas de la autoridad competente única.

² Doc. 8687/19 + REV 1.

- c) **Duración del proceso de concesión de autorizaciones (artículo 6):** El texto transaccional de la Presidencia prevé un período de cuatro años para la finalización del procedimiento de concesión de autorizaciones. Algunas delegaciones subrayaron que la viabilidad de respetar ese plazo dependía directamente de qué autorizaciones habrán de obtenerse dentro del período de cuatro años, y cuáles quedan fuera del ámbito de aplicación de la Directiva. En este contexto, algunas de ellas se manifestaron decididamente a favor de que se excluyeran del ámbito de aplicación determinados procesos, por ejemplo los de ordenación del territorio y evaluación de los impactos medioambientales, aduciendo que tales procesos son complejos y prolongados y que es probable que den lugar a retrasos, haciendo así muy difícil, o aun imposible, que se respete el plazo propuesto.
- d) **Organización del procedimiento de concesión de autorizaciones (artículo 6 bis)** El texto transaccional de la Presidencia otorga a los Estados miembros flexibilidad para aplicar el procedimiento de concesión de autorizaciones con arreglo a sus especificidades nacionales, pero mantiene la idea de la descripción detallada de solicitud elaborada por la autoridad competente única. Algunas delegaciones albergaban dudas por lo que respecta al valor añadido de la descripción detallada de solicitud, ya que la legislación nacional establece requisitos claros en este sentido para los promotores.

Por otra parte, los Estados miembros solicitaron aclaraciones sobre el comienzo del procedimiento y sobre los documentos que ha de facilitar el promotor al notificar el proyecto.

e) **Otras cuestiones:**

- **Carácter prioritario (artículo 3):** Algunas delegaciones manifestaron su inquietud respecto de la viabilidad de la aplicación de esta disposición.
- **Previsión de los procedimientos de concesión de autorizaciones (artículo 4)**
Por lo que respecta a la obligación de las autoridades de los Estados miembros de realizar evaluaciones sobre los efectos en el medio ambiente, que se deriva simultáneamente de legislación pertinente de la Unión, algunas delegaciones recalcaron que las autoridades de los Estados miembros deberían tener asimismo la posibilidad de aplicar procedimientos coordinados además de los procedimientos conjuntos.

- **Coordinadores europeos (artículo 7):** En cuanto a la función de los coordinadores europeos en el proceso de concesión de autorizaciones para los proyectos en los que participan dos o más Estados miembros, algunas delegaciones subrayaron que esta disposición debía ajustarse al artículo 45 del Reglamento RTE-T³, insistiendo en que se evitara asignar a los coordinadores europeos nuevas tareas y responsabilidades.
- **Transposición (artículo 10 bis):** El texto transaccional de la Presidencia prevé un plazo de transposición de veinticuatro meses. Este plazo pareció recabar el apoyo de la mayoría de las delegaciones, si bien algunas de ellas hubieran preferido uno más prolongado, es decir, treinta y seis meses.

IV. CONCLUSIONES

11. Por el momento, dos delegaciones han formulado sendas reservas de estudio parlamentario. La mayoría de las delegaciones ha formulado una reserva de examen sobre el último texto transaccional de la Presidencia, anexo al presente informe.
12. De las deliberaciones de carácter técnico se desprende que las cuestiones que acaban de exponerse tendrán que volver a tratarse durante la Presidencia entrante, con el fin de lograr más avances y alcanzar un acuerdo sobre el expediente. No obstante, las delegaciones valoraron el trabajo de impulso de este expediente que ha realizado la Presidencia, y esta estima que el texto transaccional constituye una base firme para futuros trabajos sobre la propuesta.
13. A la luz de lo anterior, se ruega al Comité de Representantes Permanentes y al Consejo que tomen nota de los avances realizados en el examen de la propuesta.

³ Reglamento (UE) n.º 1315/2013 del Parlamento Europeo y del Consejo, de 11 de diciembre de 2013, sobre las orientaciones de la Unión para el desarrollo de la Red Transeuropea de Transporte, y por el que se deroga la Decisión n.º 661/2010/UE (DO L 348 de 20.12.2013, p. 1).

*Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
on streamlining measures for advancing the realisation of the trans-European transport
network**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 172 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee⁴,

Having regard to the opinion of the Committee of the Regions⁵,

Acting in accordance with the ordinary legislative procedure,

Whereas:

* This text is identical to the annex of doc. 8687/1/19 REV 1 presented to the intermodal WP on 17 May 2019.

⁴ OJ C , , p. .

⁵ OJ C , , p. .

- (1) Regulation (EU) No 1315/2013 of the European Parliament and of the Council⁶ sets out a common framework for the creation of state-of-the-art, interoperable networks for the development of the Internal Market. The trans-European transport networks (TEN-T) have a dual layer structure: the comprehensive network ensures connectivity of all regions of the Union, whereas the core network consists of those elements of the comprehensive network which are of the highest strategic importance for the Union. Regulation (EU) No 1315/2013 defines binding completion targets for implementation, with the core network to be completed by 2030 and the comprehensive network by 2050.
- (2) Notwithstanding the necessity and binding timelines, experience has shown that many investments aiming to complete the TEN-T are confronted with complex permit granting procedures, cross-border procurement procedures and other procedures. This situation jeopardises the on time implementation of projects and in many cases results in significant delays and increased costs. In order to address these issues and make synchronised TEN-T completion possible, harmonised action is necessary at Union level.
- (2a) This Directive should cover project related procedures, including for instance the environmental impact assessment [...]. However, the Directive should be without prejudice to the steps undertaken at strategic level and which are not project related, such as strategic environmental assessment, public budgetary planning as well as national or regional transport plans, strategic land planning. **In order to increase the efficiency and ensure high quality project documentation, preparatory works such as preliminary studies and reports should be carried out before the start of the permit granting procedure.**

⁶ Regulation (EU) No 1315/2013 of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network and repealing Decision No 661/2010/EU (OJ L 348, 20.12.2013, p. 1).

- (3) Priority treatment should be given to projects covered by this Directive. [...] Priority treatment [...] **might provide for** shorter timelines, simultaneous procedures or limited timeframes for appeals while ensuring that the objectives of other horizontal policies are also reached. **In the legal frameworks of many Member States priority treatment is given to certain project categories based on their strategic importance for the economy.** When such a framework exists within a national legal framework, it should automatically apply to projects [...] **within the scope of the directive.**
- (4) In order to improve the effectiveness of the environmental assessments and streamline the decision-making process, where the obligation to carry out assessments related to environmental issues of core network projects arises simultaneously from Directive 2011/92/EU, as amended by Directive 2014/52/EU, and from other Union legislation such as Directive 92/43/EEC, Directive 2009/147/EC, Directive 2000/60/EC, Directive 2008/98/EC, Directive 2010/75/EU **and** [...] Directive 2012/18/EU [...], Member States should ensure that a joint procedure fulfilling the requirements of these Directives is provided.
- (5) Projects on the core network corridors should be supported by efficient permit granting procedures to make clear management of the overall procedure possible and to provide a main entry point for [...] **project promoters.** Member States should designate a **single** competent authority in accordance with their national legal frameworks and administrative set-ups **and type of project.**
- (6) The [...] **designation** of a single competent authority at national level acting as the main point of contact for the project promoter for all permit granting procedures should reduce the complexity, improve the efficiency and increase the transparency of the procedures. It should also enhance the cooperation between Member States where appropriate. The procedures should promote a real cooperation between [...] **project promoters** and the single competent authority.

- (6a) The single competent authority may also be entrusted with tasks related to the coordination and the authorisation, in compliance with Union and national legislation, of specific projects of common interest aiming at the reconstruction of infrastructure on the core network of the trans-European transport network in the case of natural or man-made disasters.
- (7) The procedure set out by this Directive should be without prejudice to the fulfilment of the requirements defined in the international and Union law, including provisions to protect the environment and human health.
- (8) Given the urgency to complete the TEN-T core network, the simplification of permit granting procedures should be accompanied by a time limit within which competent authorities responsible should take an authorising decision to build the transport infrastructure. This time limit should stimulate a more efficient handling of procedures and should, under no circumstances, compromise the Union's high standards for environmental protection and public participation.
- (9) Member States should endeavour to ensure that appeals challenging the substantive or procedural legality of an authorising decision are handled in the most efficient way possible.
- (10) [...] TEN-T infrastructure projects **that involve two or more Member States** face particular challenges as regards the coordination of permit granting procedures. The European Coordinators should be informed about these procedures in order to facilitate their synchronisation and completion.

- (11) Public procurement in cross-border projects of common interest should be conducted in accordance with the Treaty and Directives 2014/25/EU and/or 2014/24/EU. In order to ensure the efficient completion of the cross-border core network projects of common interest, public procurement carried out by a joint entity should be subject to a single national legislation. By way of derogation from the Union public procurement legislation, the applicable national rules should in principle be those of the Member State where the joint entity has its registered office. It should remain possible to define the applicable legislation in an intergovernmental agreement. For reasons of legal certainty, Member States participating in a joint entity set up before [entry into force of Directive] may jointly decide that current procurement strategies remain applicable for that joint entity. **For reasons of legal certainty, current procurement strategies should remain applicable for a joint entity set up before [entry into force of Directive] if the Member States concerned do not agree otherwise.**
- (12) The Commission is not systematically involved in the authorisation of individual projects. However, in some cases, certain aspects of the project preparation are subject to clearance at Union level. Where the Commission is involved in the procedures, it will give priority treatment to the Union projects of common interest and ensure certainty for project promoters. In some cases State aid approval might be required. In line with the Best Practice Code for the conduct of State aid control procedures, Member States may ask the Commission to deal with projects of the TEN-T they consider to be of priority with more predictable timelines under the case portfolio approach or the mutually agreed planning.
- (13) The implementation of infrastructure projects on the TEN-T core network should be also supported by Commission guidelines that bring more clarity as regards the implementation of certain types of projects while respecting the Union acquis. For example the Action Plan for nature, people and the economy⁷ foresees such guidance to bring more clarity in view of respecting the Birds and Habitats Directives. Direct support related to public procurement should be made available for projects of common interests to ensure the best value for public money⁸.

⁷ COM(2017) 198 final.

⁸ COM(2017) 573 final

- (14) Since the objectives of this Directive cannot be sufficiently achieved by the Member States and can therefore, by reason of the need for coordination of those objectives, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (15) For reasons of legal certainty, the permit granting procedures which started prior to the transposition of this Directive should not be subject to the provisions of this Directive.

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER I - GENERAL PROVISIONS

Article 1

Subject matter and scope

1. This Directive shall apply to the permit granting procedures required in order to authorise the implementation of projects on the core network corridors of the trans-European transport network.
2. Member States may decide to extend the application of this Directive to other projects on the core and comprehensive network of the trans-European transport network.

Article 2

Definitions

For the purposes of this Directive, the following definitions shall apply:

- (a) "authorising decision" means the [...] **decision or a set of decisions according to national legal and administrative systems that determines whether or not a project promoter is entitled to proceed with the project implementation, without prejudice to any decision taken in the context of an administrative appeal procedure; the decision or set of decisions may be taken** simultaneously or successively [...] by a Member State authority or authorities, not including courts or tribunals [...];

- (b) "permit granting procedures" means any procedure [...] that has to be followed or step that has to be taken **related to an individual project** as required by the authorities of a Member State, under Union or national law, before the project promoter can implement the project. [...] **It shall** not include [...] procedures for the award of public procurements **nor steps undertaken at strategic level and which are not project related, such as strategic environmental assessment, public budgetary planning as well as national or regional transport plans, and strategic land use planning;**
- (b)(i) "Project" means the construction, **adaptation** or modification of a defined section in the transport infrastructure, which leads to improvement of capacity, **safety** and efficiency of the infrastructure and whose implementation requires a permit granting procedure;
- (c) "Project promoter" means the applicant for authorisation of a project implementation or the public authority which initiates a project [...];
- (d) "single competent authority" means the authority, which is the main point of contact for the project promoter and is responsible for facilitating the permit granting procedures in accordance with this Directive;
- (e) [...]

CHAPTER II – PERMIT GRANTING

Article 3

Priority status

Member States shall **endeavour** [...] to ensure that all authorities **[...] involved in the permit granting procedure, excluding courts and tribunals,** give priority to projects covered by this Directive.

Where specific permit granting procedures for priority projects exist under national law, Member States shall, without prejudice to the requirements and time-limits of this Directive, ensure that projects covered by this Directive are treated under these procedures.

This shall be without prejudice to budgetary decisions.

Article 4

Provision of a permit granting procedure

14. Member States shall provide for a permit granting procedure resulting in the authorising decision, in order to meet the time limit set out in Article 6.
15. In the case of projects for which the obligation to carry out assessments of the effects on the environment arises simultaneously from Directive 2011/92/EU of the European Parliament and of the Council and **Council Directive 92/43/EEC, Directive 2009/147/EC, and/or** other **relevant environmental** Union [...] **legislation**, Member States shall ensure that joint procedures within the meaning of Article 2(3) of Directive 2011/92/EU are provided for.

Single Competent Authority

1. The Member State shall ensure that a single competent authority is responsible for facilitating the permit granting procedure for a project leading to the authorising decision.
 2. The Member State shall designate a single competent authority at the appropriate administrative level. Member States may, where relevant, designate different authorities as the single competent authority per project or category of projects, **transport mode**, or per geographical area provided that **there is** only one **single competent** authority [...] per project.
 3. [...]
 4. The responsibilities of the single competent authority shall consist of the following principles:
 - (a) It is the main point of contact for the project promoter in the procedure leading to the Authorising decision for a given project;
 - (b) It provides the Detailed Application Outline to the project promoter, including the time-limits within the permit granting procedures, in line with the time limit set out in accordance with Article 6;
 - (c) It [...] **advises** the project promoter in the submission of all relevant documents and information.
- The responsibilities of the single competent authority are without prejudice to the competence of other authorities involved in the permit granting procedure.**
5. [...] **T**he single competent authority shall [...] **verify** that all the necessary permits, decisions and opinions **for the authorising decision** have been obtained [...].

Article 6

Duration of the permit granting process

- 1 [...]. The Member States shall set deadlines for the permit granting procedure not exceeding 4 years from the start of the permit granting procedure. The Member States may adopt the necessary measures in order to break down the available period in different steps and according to Union and national law.
- 2 [...]. The period of 4 years shall be without prejudice to administrative appeal procedures and judicial remedies before a court and tribunal.
- 3 [...]. The Member States shall adopt the necessary measures to ensure that in **duly justified** cases **or** [...] unforeseeable circumstances, an appropriate extension to the four-year period defined in this article may be granted. The single competent authority shall determine, on a case-by-case basis, the duration of the prolongation and shall duly justify its decision.
4. [deleted]
16. 5. [deleted]
17. 6. [deleted]
18. 7. [deleted]

19.

20. Article 6a

Organisation of the permit granting procedure

1. The notification of the project by the project promoter to the single competent authority shall serve as the start of the permit granting procedure.

1a. Member States may define the level of detail of information **and the relevant documents** to be provided by the project promoter when notifying a project, **in order to assess the maturity of the project.**

2. When a project promoter notifies the project to the single competent authority, the single competent authority shall draw up the Detailed Application Outline and communicate it to the project promoter, unless it considers that the project is not mature enough. In this latter case, the single competent authority shall reject the notification and justify its decision.

[...]

3. The detailed application outline shall contain a schedule to prepare the project application file with at least the following points:
 - (a) The individual stages of the procedure and their **indicative** time limits;
 - (b) The material scope and level of detail of information to be submitted by the project promoter;
 - (c) List of necessary permits, decisions and opinions to be obtained **by the project promoter during the permit granting procedure,** in accordance with Union and national law;
 - (d) Authorities and stakeholders to be involved in relationship with the respective obligations, including during the formal phase of the public consultation.
4. The detailed application outline shall remain valid during the permit granting procedure. Any request by the single competent authority additional to what is identified in the detailed application outline shall be duly justified by exceptional and unforeseeable new circumstances.
5. When the project promoter has submitted the project application file, the single competent authority shall ensure that the file is in line with the detailed application outline and adopt the authorising decision within the time limit **set out** in accordance with **Article 6** [...]. The single competent authority may only request additional information from the project promoter as regards the material scope and level of detail concerning the elements identified in the detailed application outline.

Article 7

Coordination of cross-border permit granting procedure

21. For projects that involve two or more Member States, Member States shall ensure that the single competent authorities of the Member States concerned **endeavour to** coordinate their timetables and agree on a joint schedule.
22. Member States shall take the necessary measures to ensure that in line with Article 45 of Regulation (EU) No 1315/2013, the European Coordinators receive information on the permit granting procedures and that they may facilitate contacts between the single competent authorities in the context of the permit granting procedures for projects that involve two or more Member States.
23. [...] Member States shall, if the time limit **set out in Article 6** [...] is not observed, provide information upon request to the European Coordinators concerned about the measures taken or planned to be taken to conclude the permit granting procedure with the least possible delay.

CHAPTER III - PUBLIC PROCUREMENT

Article 8

Public Procurement in cross-border projects

24. When the procurement procedures are conducted by a joint entity in a cross-border project, Member States shall take the necessary measures to ensure that the joint entity applies the national provisions of one Member State and, by way of derogation from Directives 2014/25/EU and 2014/24/EU, those provisions shall be the provisions determined in accordance with point (a) of Article 57(5) of Directive 2014/25/EU of the European Parliament and of the Council or point (a) of Article 39(5) of Directive 2014/24/EU of the European Parliament and of the Council, as applicable, unless an agreement between the participating Member States provides otherwise. Such an agreement shall in any case provide for the application of a single national legislation in case of the procurement procedures conducted by a joint entity.

25.

CHAPTER IV - TECHNICAL ASSISTANCE

Article 9

Technical assistance

[Deleted]

CHAPTER V - FINAL PROVISIONS

Article 10

Transitional provisions

This Directive shall not apply to the permit granting procedures which started before [24 months following the entry into force of this Directive].

Article **8** [...] shall only apply to such contracts for which the call for competition has been sent or, in cases where a call for competition is not foreseen, where the contracting authority or contracting entity has commenced the procurement procedure after [OJ: 24 months following the entry into force of this Directive force].

[...]

Article 8 shall not apply to a joint entity set up before [entry into force of Directive], provided that the procurement procedures of that entity continue to be governed by the legislation determined in accordance with an agreement concluded between the participating Member States prior to that date.

Article 10a

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [24 months following the entry into force of this Directive] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 11

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President
