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Subject:	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

In view of the Intermodal Transport Working Party on 9 September 2019, delegations will find attached a revised Presidency compromise proposal on the above subject.

Changes marked in **bold / underline** as well as deletions marked in ~~strikethrough~~ without grey shading are solely reproduced and identical to those in the annex of doc. 9189/19 (progress report).

New changes compared to the annex of doc. 9189/19 (progress report) are marked in grey shading.

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 Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

¹ OJ C , , p. .

² OJ C , , p. .

- (1) Regulation (EU) No 1315/2013 of the European Parliament and of the Council³ sets out a common framework for the creation of state-of-the-art, interoperable networks for the development of the ~~i~~nternal ~~m~~arket. 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. ~~That~~ 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.

³ 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).

(2a) This Directive should cover project related procedures, including ~~for instance~~ the environmental impact assessment, ~~other environmental assessments related to the project, spatial planning and land use, as well as other procedures.~~ However, ~~the~~ **this** 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, ~~or strategic~~ land planning. **In order to increase the efficiency of permit granting procedures 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.**

(2aa) This Directive should apply to projects on the core network corridors. Member States may apply this Directive to other projects on the core and comprehensive TEN-T network in order to enable a harmonized approach for transport infrastructure projects. The publication by national authorities of lists of individual projects that fall under this Directive can increase transparency for project promoters regarding ongoing as well as future works along the trans-European transport network.

- (3) Priority treatment should be given to projects covered by this Directive. ~~In the legal frameworks of many Member States priority treatment is given to certain project categories based on their strategic importance for the economy. Priority~~ **Such** treatment is characterised by **may include** ~~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 ~~on the core network corridors provided for under Regulation (EU) No 1315/2013~~ **within the scope of the this Directive.**

- (4) In order to improve the effectiveness of the environmental assessments and streamline the decision-making process, **this Directive should provide for the way assessments are to be carried out** where the obligation to carry out assessments related to environmental issues of **core network projects** arises simultaneously from Directive 2011/92/EU **of the European Parliament and of the Council**⁴, as amended by Directive 2014/52/EU **of the European Parliament and of the Council**⁵, and from other Union legislation such as **Directives 2000/60/EC**⁶, **2008/98/EC**⁷, **2009/147/EC**⁸, **2010/75/EU**⁹ and **2012/18/EU**¹⁰ **of the European Parliament and of the Council, and Council Directive 92/43/EEC**¹¹, **Directive 2009/147/EC, Directive 2000/60/EC, Directive 2008/98/EC, Directive 2010/75/EU and Directive 2012/18/EU and Directive 2011/42/EC**, 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 ~~investors~~ **project promoters**. Member States should designate **an single competent** authority in accordance with their national legal frameworks and administrative set-ups, **and type of project**.

⁴ **Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (OJ L 026, 28.1.2012, p.1).**

⁵ **Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (OJ L 124, 25.4.2014, p. 1).**

⁶ **Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p.1).**

⁷ **Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312 22.11.2008, p. 3).**

⁸ **Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 020, 26.1.2010, p.7).**

⁹ **Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control (OJ L 334, 17.12.2010, p.17).**

¹⁰ **Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC (OJ L 197, 24.7.2012, p. 1).**

¹¹ **Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p.7).**

- (6) The ~~establishment~~ **designation** of ~~an~~ **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 ~~investors~~ **project promoters** and the **designated** ~~single-competent~~ authority.
- (6a) The **designated** ~~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~~ **requirements** 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 **designated** ~~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) ~~Cross-border~~ 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, **where relevant**, Directives 2014/25/EU¹² and/or **Directive 2014/24/EU¹³ of the European Parliament and of the Council**. 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 **the a single national law of one Member State** legislation. By way of derogation from the Union **law on** 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 ... [date of entry into force of this 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.

¹² **Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 094 28.3.2014, p. 243).**

¹³ **Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).**

- (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 economy¹⁴, **presented by the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 27 April 2017, foresees such provides guidance and to brings more clarity on how to comply with in view of respecting Directive 2009/147/EC and Directive 92/43/EEC 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 money¹⁵.
- (14) Since the objectives of this Directive cannot be sufficiently achieved by the Member States **and but can therefore rather,** 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.

¹⁴ COM(2017) 198 final.

¹⁵ COM(2017) 573 final

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 ~~final act which can be based on a~~ **decision or a** set of decisions ~~according to~~ **under national legal system and administrative law** 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~~ **taken** simultaneously or successively ~~taken by a Member State authority or authorities, not including~~ **excluding** courts or **and** tribunals, ~~adopted, according to national legal or administrative systems; the authorising decision 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;~~

- (b) "permit-granting procedures" means any procedure ~~related to the individual project~~ 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) "~~p~~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) "~~p~~Project promoter" means the applicant for authorisation of a project implementation or the public authority which initiates a project";
- (d) "~~single designated competent~~ authority" means the authority which is the main point of contact for the project promoter and is responsible for facilitating efficient and structured processing of ~~the~~ permit-granting procedures in accordance with this Directive;
- (e) ~~"Cross-border project of common interest" means a project of common interest covering a cross-border section as defined in Article 3 point (m) of Regulation (EU) No 1315/2013 which is managed and implemented by a joint entity established by the Member States concerned.~~

CHAPTER II – PERMIT GRANTING

Article 3

Priority status

Member States shall **endeavour** ~~take the necessary measures~~ to ensure that all authorities **concerned 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 **objectives**, requirements and time-limits of this Directive, ensure that projects covered by this Directive are ~~treated~~ **handled** under these procedures.

This **Article** shall be without prejudice to **any** budgetary decisions.

Article 4

Provision of a permit-granting procedure

1. 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.
2. 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~~ and **as well as from Directive 92/43/EEC, and/or Directive 2009/147/EC,** ~~and/or other relevant environmental Union law~~, Member States shall, **where appropriate,** ensure that joint procedures within the meaning of Article 2(3) of Directive 2011/92/EU are provided for. **For projects, where joint procedures are not appropriate, Member States shall ensure that coordinated procedures within the meaning of that paragraph are provided for.**

3. **In case of projects for which the obligation to carry out assessments on the effects on the environment arises simultaneously from this Directive and Union legislation other than the Directives listed in the first subparagraph, Member States shall provide for a coordinated or a joint procedure within the meaning of Article 2(3) of Directive 2011/92/EU.**

Article 5a

Single Designated 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 **to act as designated authority**. Member States may, where relevant, designate different authorities as the **single competent designated** authority per project or category of projects, **transport mode**, or per geographical area provided that **there is** only one **designated** single competent authority ~~is responsible~~ per project.
- ~~3. The Member States shall ensure that the single competent authority has at its disposal all the required personnel and material resources in order to perform its tasks.~~
4. The responsibilities of the **single competent designated** authority shall **consist of the following principles**:
 - (a) **be** ~~it is~~ the main point of contact for the project promoter in the procedure leading to the Authorising decision for a given project;
 - (b) **provide** ~~it provides, where requested,~~ the Detailed Application Outline to the project promoter, including the **indicative** time-limits within the permit-granting procedures, in line with the time limit set out in accordance with Article 6;
 - (c) ~~it assists~~ **advises** the project promoter in the submission of all relevant documents and information.

This paragraph is without prejudice to the competence of any ~~The responsibilities of the single competent designated authority are without prejudice to the competence of other~~
authorities involved in the permit-granting procedure.

5. ~~When taking the authorising decision (The single competent~~ **designated** authority shall ensure **verify** that all the necessary permits, decisions and opinions **for the authorising decision** have been obtained ~~and shall duly justify its decision.~~

Article 6

Duration of the permit-granting process

- 1a. 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.
- 2a. The **four-year** period ~~of 4 years~~ **referred to in paragraph 1** shall be without prejudice to **obligations arising from Union and international legal acts as well as** administrative appeal procedures and judicial remedies before a court ~~and~~ **or** tribunal.
- 3a. The Member States shall adopt the necessary measures to ensure that, in **duly justified** cases ~~or of~~ unforeseeable circumstances, an appropriate extension ~~to of~~ the four-year period ~~defined~~ **referred to** in this ~~A~~ article may be granted. The ~~single competent~~ **designated** authority shall determine, on a case-by-case basis, the duration of the prolongation and shall duly justify its decision.
4. [deleted]
5. [deleted]
6. [deleted]
7. [deleted]

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

1a. In order to assess the maturity of the project, 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.~~ **If the designated authority considers that the project is not mature enough, it shall reject the notification and justify its decision.**

~~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.~~

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

3. Member States shall take the necessary measures to ensure that project promoters receive general information, where relevant according to the mode of transport, about the necessary permits, decisions and opinions that may be required for implementing a project. That information shall, with regard to the different permits, decisions and opinions include general information about the material scope and level of detail of information to be submitted by the project promotor, applicable time limits or, if there are no such time limits indicative time limits, as well as the authorities and stakeholders normally involved in consultations linked to the different permits, decisions and opinions.

That information shall be easily accessible to all relevant project promoters, in particular through information portals (electronic or physical).

4. **The project promoter may request that the designated authority shall establish a detailed application outline comprising** ~~The detailed application outline shall contain a schedule to prepare the project application file with~~ at least the following **information points customised for the individual project:**
- (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) **A 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.
5. The detailed application outline shall remain valid during the permit-granting procedure. Any request by the ~~single competent~~ **designated** authority additional to what is identified in the detailed application outline shall be duly justified by exceptional and unforeseeable new circumstances.
6. When the project promoter has submitted the project application file, the ~~single competent~~ **designated** 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** ~~this directive.~~ **In case a detailed application outline has been provided to the project promoter that** ~~The single competent authority~~ **shall ensure that the file is in line with the detailed application outline and** 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

4. For projects that involve two or more Member States, Member States shall ensure that the ~~single competent~~ **designated** authorities of the Member States concerned **endeavour to** coordinate their timetables and agree on a joint schedule.
5. 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~~ **designated** authorities in the context of the permit-granting procedures for projects that involve two or more Member States.
6. ~~Without prejudice to the time limits set out under this Directive,~~ Member States shall, if the time limit **set out in Article 6** ~~for the authorising decision~~ 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

7. 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 Council¹⁶ or point (a) of Article 39(5) of Directive 2014/24/EU of the European Parliament and of the Council¹⁷, 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~~ **for** procurement procedures conducted by a joint entity.

CHAPTER IV - TECHNICAL ASSISTANCE

Article 9

Technical assistance

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¹⁶ **Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 094 28.3.2014, p. 243).**

¹⁷ **Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).**

CHAPTER V - FINAL PROVISIONS

Article 10

Transitional provisions

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

Article **89** 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 ... [Of: 24 months following **after** the **date of** entry into force of this Directive **force**].

~~Member States participating in a joint entity set up before [entry into force of Directive] may jointly decide that Article 8 shall not apply to procurement procedures by that joint entity.~~

Article 8 shall not apply to a joint entity set up before ... [date of entry into force of this 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~~ **immediately** 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