



Council of the
European Union

Brussels, 18 September 2018
(OR. en, ga)

12135/18

**Interinstitutional File:
2018/0138(COD)**

**TRANS 377
IA 273
INST 324
PARLNAT 188**

COVER NOTE

From:	Irish Parliament
date of receipt:	29 August 2018
To:	General Secretariat of the Council

Subject:	Proposal for a Regulation of the European Parliament and of the Council on streamlining measures for advancing the realisation of the trans-European transport network [doc. 9075/18 - COM(2018) 277 final] – Reasoned opinion on the application of the Principles of Subsidiarity and Proportionality
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Delegations will find, attached, a letter to President Tusk from the Cathaoirleach of Seanad Éireann, which includes the resolution passed by Seanad Éireann, a letter to President Tusk from the Ceann Comhairle of Dáil Éireann, which includes the resolution passed by Dáil Éireann, and the report of the Committee on Transport, Tourism and Sport on COM (2018)277 – Proposal for a Regulation of the European Parliament and of the Council on Streamlining Measures for Advancing the Realisation of the Trans-European Transport Network.

Cathaoirleach Sheanad Éireann



Chairman of Seanad Éireann

12 July 2018

Mr. Donald Tusk
President of the Council of the European Union
Council of the European Union
Rue de la Loi 175
1048 Brussels
Belgium

Re: Reasoned opinion of Seanad Éireann on the Proposal for a Regulation of the European Parliament and of the Council on Streamlining Measures for Advancing the Realisation of the Trans-European Transport Network - COM (2018) 277

Dear President Tusk,

I am writing to inform you that Seanad Éireann, at its meeting of 10 July 2018, considered the *Proposal for a Regulation of the European Parliament and of the Council on Streamlining Measures for Advancing the Realisation of the Trans-European Transport Network - COM (2018) 277*, and is of the opinion that the proposal does not comply with the principle of subsidiarity.

Under Standing Orders of Seanad Éireann, a Joint Committee was conferred with the power to consider the above Proposal for compliance with subsidiarity. The Committee was obliged under Standing Orders to report back to Seanad Éireann if it was of the opinion that the proposal did not comply with the principle of subsidiarity. The Committee duly reported to the Seanad and a motion on the Report of the Committee was considered and adopted by the Seanad at its meeting of 10 July 2018.

In accordance with Standing Orders, I have enclosed a copy of the Resolution of Seanad Éireann and a copy of the Report of the Committee with the Reasoned Opinion. I have also sent this letter to the Presidents of the European Commission, the Parliament and the Irish Minister for Transport, Tourism and Sport.

Yours sincerely,

Senator Denis O'Donovan
Cathaoirleach
Seanad Éireann

Seanad Éireann
Teach Laighean
Shráid Chill Dara
Baile Átha Cliath 2

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Seanad Éireann
Leinster House
Kildare Street
Dublin 2

Tá Seannad Éireann tar éis an tOrdú
seo a leanas a dhéanamh:

Seannad Éireann has made the
following Order:

“Go ndéanann Seannad Éireann:

That Seannad Éireann:

- (1) an Tuarascáil chomhaontaithe a thabhairt dá aire ón gComhchoiste um Iompar, Turasóireacht agus Spórt faoi Bhuan-Ordú 116 ar an Togra le haghaidh Rialachán ó Pharlaimint na hEorpa agus ón gComhairle maidir le Bearta Cuíchóirithe chun Dul Chun Cinn a Dhéanamh maidir leis an nGréasán Tras-Eorpach Iompair a chur i gcrích – *COM (2018) 277*, a leagadh faoi bhráid Sheannad Éireann an 5 Iúil 2018, de réir Bhuan-Ordú 116(3)(b);
 - (2) ag féachaint don Tuarascáil réamhráite, agus le linn a fheidhmeanna faoi alt 7(3) d'Acht an Aontais Eorpaigh, 2009 a fheidhmiú, an tuairim a shealbhú nach ndéanann an Togra le haghaidh Rialachán ó Pharlaimint na hEorpa agus ón gComhairle maidir le Bearta Cuíchóirithe chun Dul Chun Cinn a Dhéanamh maidir leis an nGréasán Tras-Eorpach Iompair a chur i gcrích – *COM (2018) 277*, prionsabal na coimhdeachta a chomhlíonadh ar na cúiseanna atá leagtha amach in Alt 4 den Tuarascáil; agus
 - (3) a thabhairt dá aire, de bhun Bhuan-Ordú 116(4), go gcuirfear cóip den Rún seo mar aon leis an tuairim réasúnaithe agus an Tuarascáil réamhráite chuig Uachtarán Pharlaimint na hEorpa, Uachtarán na Comhairle agus Uachtarán an Choimisiúin.”
- (1) notes the agreed Report of the Joint Committee on Transport, Tourism and Sport under Standing Order 116 on the Proposal for a Regulation of the European Parliament and of the Council on Streamlining Measures for Advancing the Realisation of the Trans-European Transport Network - *COM (2018) 277*, which was laid before Seannad Éireann on 5 July, 2018, in accordance with Standing Order 116(3)(b);
 - (2) having regard to the aforementioned Report, and in exercise of its functions under section 7(3) of the European Union Act 2009, is of the opinion that the Proposal for a Regulation of the European Parliament and of the Council on Streamlining Measures for Advancing the Realisation of the Trans-European Transport Network - *COM (2018) 277*, does not comply with the principle of subsidiarity for the reasons set out in section 4 of the Report; and
 - (3) notes that, pursuant to Standing Order 116(4), a copy of this Resolution together with the reasoned opinion and the aforementioned Report shall be sent to the Presidents of the European Parliament, the Council and the Commission.”



Ceann Comhairle

Mr. Donald Tusk
President of the Council of the European Union
Council of the European Union
Rue de la Loi 175
1048 Brussels
Belgium

12 July 2018

Re: Reasoned Opinion of Dáil Éireann on the Proposal for a Regulation of the European Parliament and of the Council on Streamlining Measures for Advancing the Realisation of the Trans-European Transport Network - COM (2018) 277

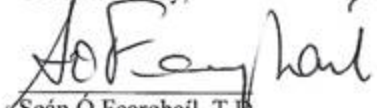
Dear President Tusk,

I am writing to inform you that Dáil Éireann, at its meeting of 10 July 2018, considered the Proposal for a Regulation of the European Parliament and of the Council on Streamlining Measures for Advancing the Realisation of the Trans-European Transport Network - COM (2018) 277, and is of the opinion that the proposal does not comply with the principle of subsidiarity.

Under Standing Orders of Dáil Éireann, a Joint Committee was conferred with the power to consider the above Proposal for compliance with subsidiarity. The Committee was obliged under Standing Orders to report back to Dáil Éireann if it was of the opinion that the proposal did not comply with the principle of subsidiarity. The Committee duly reported to the Dáil and a motion on the Report of the Committee was considered and adopted by the Dáil at its meeting of 10 July 2018.

In accordance with Standing Orders, I have enclosed a copy of the Resolution of Dáil Éireann and a copy of the Report of the Committee with the Reasoned Opinion. I have also sent this letter to the Presidents of the European Commission, the Parliament and the Irish Minister for Transport, Tourism and Sport.

Yours sincerely,


Seán Ó Fearghail, T.D.
Ceann Comhairle
Dáil Éireann

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DÁIL ÉIREANN

TUARASCÁIL ón gCOMHCHOISTE UM IOMPAR, TURASÓIREACHT AGUS SPÓRT FAOI BHUAN-ORDÚ 114 AR AN TOGRA LE HAGHAIDH RIALACHÁN ó PHARLAIMINT NA hEORPA AGUS ón gCOMHAIRLE MAIDIR LE BEARTA CUÍCHÓIRITHE CHUN DUL CHUN CINN A DHÉANAMH MAIDIR LEIS AN nGRÉASÁN TRAS-EORPACH IOMPAIR A CHUR I gCRÍCH - COM (2018) 277.

Rith Dáil Éireann an Rún seo istigh ag an gCruinniú de Dháil Éireann a bhí ann an 10ú lá seo d'Iúil, 2018.

REPORT OF THE JOINT COMMITTEE ON TRANSPORT, TOURISM AND SPORT UNDER STANDING ORDER 114 ON THE PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON STREAMLINING MEASURES FOR ADVANCING THE REALISATION OF THE TRANS-EUROPEAN TRANSPORT NETWORK – COM (2018) 277.

The within Resolution was passed by Dáil Éireann at its Meeting on this 10th day of July, 2018.

Cathaoirleach Dháil Éireann

Le cur go dtí:
For transmission to:

President of the Council of the European Union

Go ndéanann Dáil Éireann:

- (1) an Tuarascáil chomhaontaithe a thabhairt dá haire ón gComhchoiste um Iompar, Turasóireacht agus Spórt faoi Bhuan-Ordú 114 ar an Togra le haghaidh Rialachán ó Pharlaimint na hEorpa agus ón gComhairle maidir le Bearta Cuíchóirithe chun Dul Chun Cinn a Dhéanamh maidir leis an nGréasán Tras-Eorpach Iompair a chur i gcrích – COM (2018) 277, a leagadh faoi bhráid Dháil Éireann an 5 Iúil 2018, de réir Bhuan-Ordú 114(3)(b);
- (2) ag féachaint don Tuarascáil réamhráite, agus le linn a feidhmeanna faoi alt 7(3) d'Acht an Aontais Eorpaigh, 2009 a fheidhmiú, an tuairim a shealbhú nach ndéanann an Togra le haghaidh Rialachán ó Pharlaimint na hEorpa agus ón gComhairle maidir le Bearta Cuíchóirithe chun Dul Chun Cinn a Dhéanamh maidir leis an nGréasán Tras-Eorpach Iompair a chur i gcrích – COM (2018) 277 prionsabal na coimhdeachta a chomhlíonadh ar na cúiseanna atá leagtha amach in alt 4 den Tuarascáil; agus
- (3) a thabhairt dá haire, de bhun Bhuan-Ordú 114(4), go gcuirfear cóip den Rún seo mar aon leis an tuairim réasúnaithe agus an Tuarascáil réamhráite chuig Uachtarán Pharlaimint na hEorpa, Uachtarán na Comhairle agus Uachtarán an Choimisiúin.

That Dáil Éireann:

- (1) notes the agreed Report of the Joint Committee on Transport, Tourism and Sport under Standing Order 114 on the Proposal for a Regulation of the European Parliament and of the Council on Streamlining Measures for Advancing the Realisation of the Trans-European Transport Network – COM (2018) 277, which was laid before Dáil Éireann on 5th July, 2018, in accordance with Standing Order 114(3)(b);
- (2) having regard to the aforementioned Report, and in exercise of its functions under section 7(3) of the European Union Act 2009, is of the opinion that the Proposal for a Regulation of the European Parliament and of the Council on Streamlining Measures for Advancing the Realisation of the Trans-European Transport Network – COM (2018) 277 does not comply with the principle of subsidiarity for the reasons set out in section 4 of the Report; and
- (3) notes that, pursuant to Standing Order 114(4), a copy of this Resolution together with the reasoned opinion and the aforementioned Report shall be sent to the Presidents of the European Parliament, the Council and the Commission.



An Comhchoiste um Iompar, Turasóireacht agus Spórt

COM (2018) 277

Togra le haghaidh Rialachán ó Pharlaimint na hEorpa agus ón gComhairle maidir le bearta cuíchóirithe chun dul chun cinn a dhéanamh maidir leis an ngréasán tras-Eorpach iompair a chur i gcrích

Iúil 2018

Joint Committee on Transport, Tourism and Sport

COM (2018) 277

Proposal for a Regulation of the European Parliament and of the Council on Streamlining Measures for Advancing the Realisation of the Trans-European Transport Network

July 2018

JOINT COMMITTEE ON TRANSPORT, TOURISM AND SPORT

Report under Dáil Standing Order 114 and Seanad Standing Order 116 on:

COM (2018) 277 - Proposal for a Regulation of the European Parliament and of the Council on Streamlining Measures for Advancing the Realisation of the Trans-European Transport Network

1. Introduction

1.1 The principle of subsidiarity is defined in Article 5(3) of the Treaty on European Union (TEU) as follows:

Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level.

Article 5(3) also gives specific responsibility to national Parliaments to ensure that EU institutions apply the principle in accordance with Protocol 2 on the application of the principles of subsidiarity and proportionality.

1.2 The test established by Article 5(3) TEU is, in effect, a “comparative efficiency” exercise, involving a *necessity* test and a *greater benefits* test:

- (i) **Necessity** - Is action by the EU necessary to achieve the objective of the proposal? Can the objective of the proposal only be achieved, or achieved to a sufficient extent, by EU action?
- (ii) **Greater Benefits** - Would the objective be better achieved at EU level – i.e. would EU action provide greater benefits than action at Member States level?

1.3 To assist national Parliaments in their evaluation of subsidiarity compliance, Article 5 of Protocol 2 provides that

Any draft legislative act should contain a detailed statement making it possible to appraise compliance with the principles of subsidiarity and proportionality. This statement should contain some assessment of the proposal's financial impact and, in the case of a directive, of its implications for the rules to be put in place by Member States...

1.4 Therefore, any new draft legislative act

- must be supported by a sufficiently ‘detailed statement’ to allow a judgment to be made by national Parliaments on its compliance with the principle of subsidiarity

- must clearly satisfy both the *necessity* and *greater benefit* tests
- must, under the principle of conferral set down in Article 5(2) of the TEU, show that the Union is acting '*only within the limits of the competences conferred upon it by the Member States in the Treaties to attain the objectives set out therein*'.

2. Scrutiny by the Committee

The Joint Committee on Transport, Tourism and Sport ("the Committee") scrutinised this proposal at its meeting of 4 July 2018, concluding with a decision to issue a reasoned opinion.

3. Background to the Proposal

On 17 May 2018, the European Commission published a proposal on streamlining measures for advancing the realisation of the trans-European transport network (TEN-T). According to the Commission,

"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."
(European Commission, 2018)

This proposal seeks to reduce delays and uncertainty encountered in the implementation of TEN-T infrastructure projects through harmonised action at the level of the EU.

4. Opinion of the Committee

The Committee has had specific regard to the Treaty provisions and is of the opinion that the proposal does not comply with the principle of subsidiarity. The reasons are set out in the following paragraphs.

- The Committee believes that the proposal unnecessarily limits the provision for national decision-making. Consequently, the scope for Member States to choose how to implement the proposal's objectives at national level, and in accordance with established national systems, is constrained.

- The Committee believes that the actions in this proposal do not sufficiently restrict themselves to those necessary to fulfil its stated objectives and, therefore, are not proportionate to the objectives of this proposal.
- The Committee is further of the opinion that this proposal does not adequately take into account local and regional considerations and has the potential to have far reaching implications on well-established national arrangements in place in Ireland. The Committee also notes that the proposal, as it is currently worded, does not address cross-border TEN-T infrastructure projects with third countries, which will be the post-Brexit status of the UK.

The Committee is satisfied that the above points, taken together, clearly demonstrate that the proposal does not comply with the principle of subsidiarity.

5. Recommendation of the Committee

The Committee agreed this Report under Dáil Standing Order 114 and Seanad Standing Order 116 on 4 July 2018.

The Committee, pursuant to Dáil Standing Order 114(3)(b) and Seanad Standing Order 116(3)(b), recommends the reasoned opinion contained in section 4 above, for agreement by Dáil Éireann and Seanad Éireann.


Fergus O'Dowd, T.D.
Chairman
Joint Committee on Transport, Tourism and Sport

4 July 2018