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MEETING DOCUMENT

From: To:	General Secretariat of the Council Antici Group (Simplification)
N° Cion doc.:	ST 16755/25 + ADD 1
Subject:	Environment Omnibus (Environmental Assessments - Permitting): AGS meeting on 7 September 2026 - Presidency steering note

With a view to the above mentioned meeting, delegations will find attached a steering note prepared by the Presidency.

The proposed Regulation on speeding up environmental assessments (RSEA) was discussed in the AGS on 6 July 2026. A number of delegations also submitted detailed written comments after that meeting. The extent of the input received by the Presidency shows that a number of both technical and political elements still have to be adjusted before the draft Regulation can gather sufficient support in COREPER.

The Presidency therefore submits to delegations a sixth revised compromise text (12302/26), to be discussed during the AGS meeting on 7 September 2026. The compromise attempts to address a number of more individual concerns of the Member States, while also finetuning some of the most delicate provisions of the proposal, such as Article 3 on SPOC, Article 7 on time-limits, Article 8 on the Birds/Habitats Directives or Article 14 on the exact scope of strategic projects.

The reasoning behind the main changes to the compromise text are outlined below. Considering the very advanced stage of the negotiations, delegations are invited to only focus on provisions which would prevent them from being able to support an overall compromise, as the Presidency is committed to reaching a negotiating mandate swiftly with a view to beginning inter-institutional negotiations with the European Parliament as soon as its position has been determined. Delegations may also send comments in writing until 9 September 2026, 9:00 AM at the latest.

The wording of all recitals will be updated once all provisions in the enacting part have been agreed.

Article 1

- The wording of paragraph 2 has been simplified and aligned with the wording used in paragraph 4.
- The text in the last phrase of paragraph 3, together with the introductory part of paragraph 4, have been deleted and replaced by a new paragraph 5 to increase clarity.

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Article 2

- The definitions of coordinated and joint procedures in points d) and e) have been reworded into passive form which no longer prescribes active responsibility for the competent authority

- The definition of major works in point f) has been deleted as this notion no longer appears in the text of the RSEA (cf. also the explanation to changes made in Article 14a below where the amendment to Annex II of the EIA Directive, containing "major works", has been deleted)

- Similarly, the definition of „***modifications to ensure decarbonisation***" is also no longer relevant, based on the deletion of Article 5

Article 3

- In the AGS on 6 July and in their subsequent written comments, a number of Member States opposed the distinction between strategic and other projects, when it comes to the obligation to establish a SPOC. Paragraph 1a and any references to it have therefore been deleted. An additional flexibility has been added in paragraph 1 to address potential overlaps with procedures for development consent.

  The Presidency considers that the resulting text of Article 3 now constitutes a careful balance between the views of Member States requesting maximum flexibility, and those who advocate for maximum integration with sectoral SPOCs: while the establishment of a SPOC is not mandatory under paragraph 1 for any type of project, paragraph 2 stipulates that any environmental SPOC shall be the same as the one required for the overall permit granting process, if provided for by sectoral legislation.

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Article 4

- The wording of Article 4 and its interplay with Article 7 has been consistently criticised for lack of clarity on the mandatory character of scoping. The Presidency therefore suggests deleting the second subparagraph of paragraph 1, and replacing it with a new wording that clarifies the split between two possible situations:

    - Optional scoping for projects subject to an EIA, which has to be in accordance with Article 7(1)(b)

    - Mandatory scoping, if provided for under sectoral EU legislation or national law

  This new wording is located in paragraph 4, instead of its original text which has been moved to paragraph 2 where it better reflects the fact that it can be applicable to all of the Directives under the scope of the RSEA.

- In paragraph 3, the words "plans" and "programs" have been deleted, as the provision was in any case only mandatory for projects since the introduction of the words "***or may as regards Directive 2001/42***" in a previous revised text. Based on requests for further flexibility, that addition has now been replaced by "where appropriate".

- In paragraph 5, a requirement to provide for deadlines in national law has been introduced in order to clarify the somewhat vague term "reasonable timelines".

Article 6

- At the request of some Member States, it has been made even clearer in paragraph 3 that making use of substantial preclusion is a mere option for Member States, to be exercised in accordance with national law.

- In paragraph 3, the requirement for application of substantive preclusion to comply with the Union's international commitments is now expressly stated.

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Article 7

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- Based on a number of requests, the Presidency's work on Article 7 was guided by the following two principles:

  - **Clear (although sometimes slightly longer) time-limits are required for projects that are subject to EIA, together with more legal certainty as regards possible suspensions**

  - **Plans or programmes that fall within the scope of SEA shall not be subject to any strict time-limits**

- More specifically, **for projects subject to EIA**, the deadline for the scoping opinion has been extended to 60 days (instead of 45), and a clarification has been added in point e) of paragraph 1 according to which the reasoned conclusion shall be issued together with the consent to the project where the Member State has chosen to merge these procedures. The Presidency has also included a possibility for an extension for complex projects, the length of which should be defined during the AGS meeting on 7 September (for instance 30 days). The rules on suspensions in points f) and g) have been merged into one point f), together with a new cap on a possible suspension (90 days with, again, a possible extension for complex projects).

- **For plans or programmes subject to SEA**, the time-limits in points a), b) and d) of paragraph 2 have been deleted.

- For projects or plans requiring an opinion of the Commission under Article 6(4) of the Habitats Directive, a time-limit of 6 months has been introduced in a new paragraph 6. Various other editorial improvements have been introduced throughout Article 7, mostly to align the wording with other existing legislation.

Article 8

- The introductory part has been further refined to clarify that the list of eligible projects not falling under the scope of the EIA Directive should not be exemplative ("such as"), but rather closed (recurring fire prevention works, fire prevention works and forestry management works or recurring maintenance activities for infrastructure projects or watercourses). Agriculture has been removed from this list.

- The term "residual killing" has been replaced by "incidental killing", as discussed in Coreper on 24 June 2026, in order to better reflect the fact that such killing might still occur despite all avoidance and mitigation measures having been duly taken. To further strengthen protection of species, the text now specifies that the exhaustion of such avoidance and mitigation measures, which may be further defined by national law, has to be assessed by the competent authority.

- References to the ***destruction of eggs and nests*** in paragraph 1, and to the appropriate level of protection in paragraph 2, have been added to ensure internal consistency with previous changes made in this Article.

Article 9

- Further flexibility has been added with regard to the requirement for joint procedures between Member States. Upon request of some Member States, the requirement for the Commission to act as a facilitator has been deleted, due to questions as to the necessity and feasibility of this provision.

Article 10

- The time-limits in paragraphs 1 and 2 have been further extended upon request of the Member States. The reference to the SPOC in paragraph 2 point (a) has been aligned with the amended wording of Article 3.

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– The language on the protection of public security has been aligned with Article 1(8) of Directive (EU) 2022/2557 on the resilience of critical entities. A corresponding change has been made in the second subparagraph of Article 13(2). This is accompanied by a more specific language on data retention periods, which may be defined by the Member States.

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Article 13

– The wording of paragraph 1 has been streamlined from a linguistic point of view, and it has been clarified that projects referred to in Article 14 shall be considered of "public interest", while the assessment whether they are of "overriding public interest" needs to be carried out on a case-by-case basis.

– In paragraph 2, the words "***requiring an explicit opinion, assessment or determination by the competent authority***" have been put into square brackets upon request by a Member State: delegations are invited to indicate whether this limitation should be kept in the text or deleted, as it has a significant impact on the scope of projects for which tacit approval will be possible, if a Member State chooses to make use of this possibility in its national law.

Article 14

– The Presidency has considered several options to address the concern raised by a number of delegations in the AGS on 6 July, when it comes to the compatibility between defence projects and their contribution to resilience and decarbonisation or resource efficiency. The Presidency came to the conclusion that this requirement in the introductory part of paragraph 1 can be deleted altogether, since the application of Article 13 is in any case subject to a case-by-case assessment and remains a mere option under national law. The limitation to ***resilience and decarbonisation or resource efficiency*** therefore appears unnecessary as a safeguard and risks to create a new test for administrations. A corresponding deletion has also been made in paragraph 2 of Article 14.

- The wording in point f) on residential ***dwellings*** has been redrafted to reflect the fact that projects involving affordable or social housing are often combined with other types of premises (non-social housing, related services etc.), which could unduly exclude such combined projects from eligibility to benefit from accelerated procedures. The term "dwellings" is used as it more accurately reflects that the provision should cover homes rather than short-term lets.

- Point h) on military mobility has been supplemented with dual-use transport infrastructure projects on the trans-European transport network in order to cover projects which might be highly relevant for military mobility but not covered by the original wording.

- Point i) has been better aligned with the wording of the EIA Directive on civil emergencies, and the last part has been deleted, as it was unduly limiting civil emergency projects by linking them to (military) defence.

Article 14a

- Upon request by a number of Member States to further increase flexibility in the EIA Directive, in consideration of the concerns of other Member States regarding the inclusion of dual-use projects at large, the wording of its Article 1(3) has been further amended to allow for the exemption from the EIA when defence and response to civil emergencies are not the ***sole***, but still at least the ***main*** purpose of the project.

- The time-limits in Article 6(4) of the EIA Directive for the initial determination and for changes/extensions to projects have been extended to 90 and 60 days, respectively.

- And finally, the proposed changes to Annexes I and II of the EIA Directive have now been deleted: while there had been calls throughout the negotiations to simplify the regime for changes and extensions to projects, any attempts – whether directly in Article 5 or in Article 14a – have been criticised for lack of legal certainty, when it comes to the determination of "significant additional adverse effects" or "similar or greater" adverse effects on the environment.

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Articles 14d-14f

- The Presidency considers that any potential deletions in sectoral legislation require a very careful assessment in the light of the final compromise wording on other provisions of the RSEA. For instance, the final wording of Article 3 on SPOC will determine to which extent it is possible to delete SPOC-related provisions in NZIA or CRMA. Similarly, the final wording of Article 7 on time-limits will have an impact on the possibility or not to align time-limits in sectoral rules.

- The Presidency therefore suggests to carry out a thorough assessment and to only propose a finalised wording of Articles 14d-14f during the second of the two AGS meetings currently planned (21 September)., and during the first AGS meeting on 7 September, delegations are invited to indicate which deletions in NZIA/CRMA/Chips they support.

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