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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Transport - Intermodal Questions and Networks
N° prev. doc.:	ST 12165/22
Subject:	Proposal for a Regulation of the European Parliament and of the Council on Union guidelines for the development of the trans-European transport network, amending Regulation (EU) 2021/1153 and Regulation (EU) No 913/2010 and repealing Regulation (EU) 1315/2013 - Comments by Ireland on Chapters IV, V and VI

Delegations will find attached written comments by Ireland on the Presidency comprise in Chapters IV, V and VI of the above proposal as presented in doc. ST 12165/22.

In relation to the Presidency compromise text (12165/22) on Chapters IV, V and VI of the proposal to revise the TEN-T Regulation, please find the below written comments from IRELAND

CHAPTER IV

PROVISIONS FOR SMART AND RESILIENT TRANSPORT

Article 47

Risks to security or public order

[...]

Article 48

Maintenance and project life cycle

[...]

Commented [A1]: While we acknowledge and welcome that the revised text aims to address some of the concerns we have raised previously on this Article, we retain serious concerns.

We welcome the exclusion of notifications made by Member States under Article 6(1) of Regulation 452, however the existence of two separate processes and requirements for screening of investments is likely to result in overlaps and confusion.

We do not believe that the TEN-T Regulation is the appropriate vehicle for achieving the objective of the proposal. A horizontal approach encompassing all sectors and building on the FDI screening regulation would be more appropriate.

Commented [A2]: Propose deletion of Article 48

Article 5(a) already addresses the development of new infrastructure and the improvement and maintenance of existing transport infrastructure, by requiring that maintenance over its lifetime is included in the planning phase of construction and by keeping the infrastructure operational. Article 5 also sets out other factors that must be taken into account in planning, developing and efficiently operating the TEN-T network.

While appreciating what the Commission is seeking to provide in Article 48, the requirements in Article 5 are appropriate and balanced. In our view, the provisions under Article 48 (a) to (c) are unnecessary and impractical.

CHAPTER V

IMPLEMENTATION OF THE INSTRUMENTS OF EUROPEAN TRANSPORT CORRIDORS AND HORIZONTAL PRIORITIES

Article 53

Work plan of the European Coordinator

2. The work plan shall be developed jointly ~~prepared in close cooperation~~ with the Member States concerned and in consultation of the Corridor Forum and rail freight governance, or consultative forum of the horizontal priority. The work plan of the European Transport Corridors shall be approved by the Member States concerned. The Commission shall submit the work plan to the European Parliament and the Council for information.

Commented [A3]: Propose to change 'prepared in close cooperation' to 'developed jointly'

Article 54

Implementing acts

1. [Building based on the analysis of the first work plan of the European Coordinators, the Commission shall adopt an implementing act for each work plan of the European Transport Corridors and the two horizontal priorities. This implementing act shall set out the priorities for infrastructure and investment planning and for funding.] The implementing act shall ensure a coherent priority setting of infrastructure and investment planning by setting indicative milestones for the implementation of major missing links, bottlenecks and cross-border sections. It shall be elaborated in close collaboration and agreed with the concerned Member States¹ and updated every four years or upon the request of Member States].

¹ The part in grey highlight is under consideration by the Council Legal Service.

2. Without prejudice to Article 8(4a), and after approval by the Member States concerned², the Commission may adopt implementing acts for the implementation of specific sections of the European Transport Corridor, in particular for the implementation of complex cross-border sections, or for specific transport infrastructure requirements of the European Transport Corridor or for the implementation of the horizontal priorities.

Commented [A4]: MS must retain the ability to set national priorities.
As seen with recent events, political priorities can change to respond to immediate issues. Can't be constrained by IA.

CHAPTER VI

COMMON PROVISIONS

Article 56

Updating of the network

1. Subject to the second paragraph of Article 172 TFEU, the Commission is empowered to adopt delegated acts in accordance with Article 60 to amend Annexes I and II, in order to:

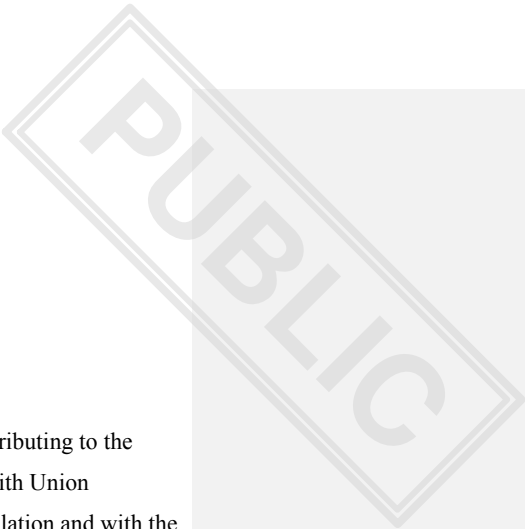
[...]

- (b) include urban nodes in the trans-European transport network, if it is demonstrated that they meet the requirements set out in Article 39(2) or exclude urban nodes from the trans-European transport network at the request of the Member State concerned;

Commented [A5]: If new urban nodes are added to the network after the adoption of this Regulation, they will need flexibility in the timescales for implementing the requirements.

For example, if a city were to exceed the 100,000 threshold in the coming years and was added to the network in 2024, it would not be appropriate to require it to comply with 2025 deadlines.

² The part in grey highlight is under consideration by the Council Legal Service.



Article 58

Alignment of national plans with Union transport policy

1. Member States shall ensure that national plans and programmes contributing to the development of the trans-European transport network are coherent with Union transport policy, with the priorities and deadlines set out in this Regulation and with the priorities set out in the work plans for the relevant corridors and horizontal priorities for the concerned Member States ~~[and with the implementing acts adopted in accordance with Article 54(1)]~~.

Commented [A6]: Suggest deletion

[...]

3. Member States shall notify to the Commission the ~~draft national plans and programmes~~ contributing to the development of the trans-European transport network ~~or abstracts, and any significant modification of those~~, during the consultation phase where applicable, and in any case before their adoption. Member States shall inform the Commission about the indicative timeline for their adoption. ~~The Commission may issue, if possible before their adoption, an opinion on the coherence of the draft national plans and programmes~~ with the priorities set out in this Regulation and with the priorities set out in the work plans for the relevant corridor and of the horizontal priorities ~~[and in the implementing acts adopted in accordance with Article 54(1)]~~. The Member States shall notify to the Commission the final national plans and programmes once adopted.

Commented [A7]: This is too broad

It would be clearer to refer to national plans only – delete 'and programmes' and 'or abstracts, and any significant modification of those.'

Commented [A8]: Important that competence at MS level is retained to allow flexibility and changing priorities at national level.

Commented [A9]: Delete

Article 62

Delay in completion of the core network, the extended core network and the comprehensive network

1. In the event of significant delay in starting or completing work on the core network, extended core network and on the comprehensive network compared to the **indicative initial** timeline set in implementing acts in accordance with Article 54 [or defined in national transport and investment plans or other relevant project documentation], the Commission may ask the Member State or Member States concerned to provide the reasons for the delay. Such reasons shall be provided by the Member State or Member States within three months of the request. On the basis of the reply given, the Commission shall consult the Member State or Member States concerned in order to resolve the problem that has caused the delay.
2. In case the delayed section concerns a European Transport Corridor, the European Coordinator shall be involved in view of resolving the problem.
3. Without prejudice to the procedure laid down in Article 258 TFEU and to Article 8(4a), the Commission may, after considering the reasons provided by the Member State or Member States concerned pursuant to the first paragraph, in case the significant delay in starting or completing the work on the core network, extended core network or on the comprehensive network is attributable to the Member State or Member States without an **objective justification**, issue an opinion together with recommendations for the Member State or Member States concerned, where relevant, to adopt within 6 months measures in view of eliminating that delay.
- ~~4. In case the delayed section concerns a project supported with Union funds under direct management, a reduction of the amount of the grant and/or an amendment or termination of the grant agreement may be initiated in accordance with the applicable rules.~~

Commented [A10]: Same concerns as for Article 54

MSs need to retain flexibility to react to other national/international priorities or emergencies that may emerge. This may require re-prioritisation of national plans or projects. We have seen this with covid and again with the Russian invasion. Priorities change and MSs should not be constrained in their ability to react.

Commented [A11]: The decision on what constitutes such a justification appears to be purely at the discretion of the Commission and not in the hands of Member States.