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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 12165/1/22 REV 1
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

Delegations will find attached comments by Ireland on ST 12165/1/22 REV 1 (Chapters IV, V, and VI of the TEN-T proposal).

In relation to the Presidency compromise text (12165/1/22 REV 1) 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

1. Without prejudice to the competence of the Member States regarding the planning, the management and the financing of the maintenance of infrastructure, and to the budgetary principle of annuality, where applicable, Member States shall ~~make all possible efforts to ensure that:~~

- (a) make all possible efforts to ensure that the infrastructure of the trans-European transport network is maintained in a way that it provides, during its lifetime, a high level of service and safety adapted to the traffic flow and that preventive maintenance needs and estimated costs over the life-time of the trans-European transport infrastructure are taken into account in the planning phase of construction or upgrading;
- (b) ensure that long term maintenance plans for road and where relevant, for inland waterway infrastructure are set up three years following the date of

Commented [A1]:

We retain serious reservations on Article 47. The changes made do not address the fundamental difficulties in creating two overlapping screening mechanisms.

Commented [A2]: The Commission concerns about potential gaps in the Screening Regulation should be addressed on a cross-sectoral basis and not just in the transport sector.

Commented [A3]:

Article 5 already deals with the planning and maintenance of the TEN-T network. Art 48 represents an overlapping and repetition of the requirements.

This Article should be deleted

Commented [A4]: Art 5(a) already provides for "the development of new infrastructure, the improvement and maintenance of existing transport infrastructure, notably by including maintenance over the life-time of the infrastructure in the planning phase of construction or improvement of the infrastructure and by keeping the infrastructure operational

Commented [A5]: It is not clear why this applies to only roads and IWW.
The benefit of a once off plan after 3 years for infrastructure that may be designed to last for decades is unclear.
It is not clear who is to be responsible for the maintenance plan covering all modes

entry into force of this Regulation, such plans may be part of a comprehensive long-term maintenance plan covering all transport modes, where applicable;

~~[Long term maintenance plans for road infrastructure and where relevant, inland waterways infrastructure are set up three years following the date of entry into force of this Regulation]~~

- (c) ~~a preview of preventive maintenance needs and estimated costs over the life time of the trans-European transport infrastructure are taken into account in the planning phase of construction or upgrading;~~

- (d) ~~in the case of railway infrastructure, ensure~~ consistency ~~is ensured~~ between the maintenance and renewal needs **in the case of railway infrastructure** related to the development of the trans-European network for transport and reflected in the indicative rail infrastructure development strategy referred to in Article 8(1) of Directive 2012/34/EU, the business plan referred to in Article 8(3) of Directive 2012/34/EU and the contractual agreement referred to in Article 30 of Directive 2012/34/EU.

Commented [A6]: This provision is unnecessary

It is already required under Art 5 and under Directive 2012/34. Under Art 8(1) of 2012/34 MS are required to have a development strategy for the development of their national railway infrastructure, the Business Plan under Art 8(3) has to take the strategy under (1) into account, and the contractual agreement under Art 30 has to take account of the Business Plan.

CHAPTER V

IMPLEMENTATION OF THE INSTRUMENTS OF EUROPEAN TRANSPORT CORRIDORS AND HORIZONTAL PRIORITIES

Article 54

Implementing acts

1. [Building on the analysis of the first work plan of the European Coordinators **adopted after the entry into force of this Regulation**, the Commission shall, **subject to the approval of the Member States concerned in accordance with Article 172 TFEU**, adopt an implementing act for each European Transport Corridor.] 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 States **concerned** and updated every four years or upon the request of Member States].
2. Without prejudice to Article 8(4a), and ~~after~~ **subject to the** approval ~~by of~~ the Member States concerned **in accordance with Article 172 TFEU**, the Commission may adopt implementing acts for the implementation of specific sections of the European Transport Corridor, in particular for complex cross-border sections, or for the implementation of the horizontal priorities.

Commented [A7]: The creation of an implementing act based on the workplan is of major concern
We do not agree that MS should be legally constrained by deadlines in a workplan that go beyond what is in the TEN-T Regulation itself.

In particular, we are concerned with this provision as it relates to the Commission powers to issue opinions on delays in Art 62 as well as the requirement for MS to align these workplans/IAs with national policy/planning which may be on a different timescale and may require flexibility

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 II¹, in order to:

[...]

- (d) adjust, on the basis of the information provided by the Member States concerned in accordance with Article 55(1), the maps for road, railway and inland waterway infrastructure in a strictly limited way so as to reflect progress made in completing the network. In adjusting those maps, the Commission shall not admit any adjustment in route alignment beyond that which is allowed by the relevant project authorising decision, as defined in Article 2, point 1, of Directive (EU) 2021/1187².

Commented [A8]: In relation to footnote

Support the Presidency in considering whether flexibility on deadlines is needed for urban nodes and infrastructure that is added to the network after the adoption of the TEN-T Regulation.

Commented [A9]: Support deletion

¹ The Presidency is considering whether, when adopting delegated acts under Article 56(1) including a new inland port, maritime port, airport, urban node or rail-road terminal in Annexes I and II, the Commission should also be empowered to extend the applicable deadlines for meeting the requirements under this Regulation and, in such a case, under which conditions.

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. **They shall also take into account** ~~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)].
2. Deleted.
3. Member States shall **provide** ~~notify to~~ the Commission **with an abstract of the relevant draft national plan(s) and/or programme(s)** contributing to the development of the trans-European transport network or **an abstracts, thereof,** and any significant modification of those **after as soon as a consultation of this plan or programme is launched,** ~~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 plan(s) and/or programme(s)~~ 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 plan(s) and/or programme(s) once adopted.~~

Commented [A10]:

Suggest deletion in line with comments on Art 54 above

Commented [A11]: This is an improvement on previous texts

However, some clarification is required.

Is the reference to consultation is in relation to modification of existing plans or does it cover both new and modified plans?

Does consultation refer to public consultation?

Commented [A12]: Important that competence at MS level is retained to allow flexibility and changing priorities at national level.

Commented [A13]: Delete in line with comments on Art 54

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 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.

[...]

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 ~~6-12~~ months measures in view of eliminating that delay.

Commented [A14]: See comments on Art 54

This should be deleted. Not in favour of being tied to deadlines beyond what is in TEN-T itself

MS 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 MS should not be constrained in their ability to react.

Commented [A15]: Even though reference to objective justification has been deleted, we still have same issue as we noted previously in that it is Commission alone that is making a judgement on this.

Commented [A16]:

Article 63

Exemptions

The provisions relating to railways, and in particular any requirement to connect airports and ports to railways as well as the provisions related to safe and secure parking and multimodal freight terminals shall not apply to Cyprus, Malta and outermost regions for as long as no railway system is established within their territory.

Commented [A17]: Add provision as per the Commission's amended proposal of 28 July :

'The provisions of Article 16a shall not apply to Ireland.'