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MEETING DOCUMENT

From:	General Secretariat of the Council
To:	Antici Group (Simplification)
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Subject:	Environment Omnibus (Environmental Assessments - Permitting): WP meeting on 9 February 2026: Presidency steering note

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

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Presidency Discussion Paper

For AGS on 9 February 2026

Environmental Omnibus – Environmental assessments

In view of the **Antici Group (Simplification) meeting on 9 February 2026** and building on Member States' interventions on 19 January 2026 and their subsequent written comments, the Presidency has prepared the following note with guiding questions to steer the discussion on the Regulation on **speeding-up environmental assessments**.

This note consists of the guiding questions the Presidency intends to discuss in two rounds of discussion.

In the **Annex** to this note, delegations will find an overview of the most important legal and policy questions/issues identified by the Presidency. **These are not intended for discussion on 9 February 2026** but rather as a collection of questions/issues that will require clarification by the Commission and/or the Council Legal Service during the examination of the proposal in subsequent AGS meetings.

Guiding questions

1. General considerations relating to Environmental assessments

A number of delegations question the possibility to increase the speed of environmental assessments while maintaining their quality, especially in the absence of any targeted amendments in the underlying instruments themselves.

- How should such measures be reconciled with the standard of assessments?
- How should it be ensured that these measures are made consistent with the sectoral instruments governing the individual assessments?

2. Streamlining of Environmental Impact Assessment (EIA) and Strategic Environmental Assessments (SEA)

Member States question the planned coordination of these procedures for a number of reasons. Most importantly, their distinctive roles and functions do not always make them prone to coordinated or even joint handling – one pertains to broader planning by means of consultations, which do not lead to a decision (SEA), the other leads to an individual administrative decision by competent authorities (EIA). Mandatory coordination of these procedures also seems to go against the call for flexibility made by some delegations. Finally, some Member States also plead for the possibility to exempt defence projects from the proposed measures.

- How can the proposal prevent legal or organisational obstacles and provide the necessary flexibility where relevant?

3. Speeding up of permitting for strategic plans and projects

Speeding up of permitting has oftentimes already been addressed in specific sectoral legislation, e.g. NZIA, REDIII, CRMA, etc., or in other omnibus legislation (e.g. the defence omnibus), or it will be addressed in legislative proposals that have been announced (e.g. the Industrial Accelerator Act, the Circular Economy Act, etc.). By speeding up environmental assessments as a general rule the Commission aims to accelerate permitting procedures in all sectors.

- How does the proposed regulation avoid creating legal uncertainty as to which procedure is applicable?
- How can the identification of strategic projects in accordance with Article 15 be made easier?
- Do Member States identify any strategic and non-strategic projects not covered by sectoral legislation which would require a different approach to be set out in this Regulation?

4. The Environmental Single Point of Contact (SPOC)

Member States shall identify environmental SPOCs with the aim of facilitating and coordinating all environmental assessments, and to establish when an application is to be completed within the deadlines set out in Article 7. The Commission will clarify the role and function of the SPOC in particular the interaction between the SPOC and the competent authorities during the decision-making process, and its compatibility with Member States' specific constitutional structures. Furthermore, the implementation period of 6 months appears challenging. .

- In order to be effective without overlapping with existing coordination processes, what role should the SPOC have?
- How should the SPOC be identified within a specific sector when several consecutive environmental assessments are required?
- How should the SPOC for the Single Digital Gateway be different from the environmental SPOC?

Annex

Overview of other questions raised by the delegations in their written comments, to be addressed during subsequent discussions.

A - Legal questions/issues to be addressed by the Commission and/or the Council Legal Service

1. Regulation vs. other legal acts - an adaption of national provisions seems necessary, as they would otherwise conflict with the Regulation and lead to ambiguities in the application of the law, which would undermine its uniform application. Does the legal instrument of the Regulation therefore serve the purpose to foster uniform application within the EU?
2. Consistency with the Aarhus Convention
3. Is this proposed Regulation consistent with the Nature Restoration Regulation, where land and sea areas are restored at the expense of food production while no socio-economic assessment has been carried out at EU level?
4. How are the provisions of this regulation consistent with and applicable to the related Directives and Regulations (Directive 2001/42/EC (SEA), Directive 2011/92/EU (EIA), Regulation (EU) 2024/1735 (NZIA), Regulation (EU) 2024/1252 (CRMA))?
5. Does Article 7 (deadlines) override or, on the contrary, not apply to sectoral legislation adopted during the last years with a view to accelerating the permit-granting process in certain sectors of the economy? Sectoral legislation included provisions to streamline and accelerate environmental assessments in some strategic sectors, namely the Renewable Energy Directive (RED III), the Net Zero Industry Act (NZIA), and the Critical Raw Materials Act (CRMA).
6. If deadlines are introduced (Article 7) to the SEA and EIA, it appears to change the conditions under which such assessments are carried out. Do deadlines apply to all SEAs and EIAs or only to “strategic” plans and projects?
7. The Commission is supposed to identify strategic projects concerning the construction and renovation of residential affordable or social buildings: While planning is a competence of Member States, is it also a competence of the EU?

8. Definitions - The European Court of Justice (Case C-293/17, para 66) ruled that the concept of a 'project' under the Habitats Directive (92/43/EEC) must be interpreted more broadly than the concept of 'project' under the EIA Directive (2011/92/EU). Thus, it is unclear how the proposed regulation on speeding-up environmental assessments, whose scope covers both the Habitats Directive and the EIA Directive (as highlighted in Article 1), could have a singular definition for 'project', given that the concept of a project may differ between the Habitats Directive and the EIA Directive.
9. Articles 8 and 14: do these provisions amount to an amendment of the sectoral legislation? Do the projects referred to in Article 14 need to be identified more precisely in order to increase legal certainty?

B - Clarifications on policy aspects to be provided by the Commission

Article 7 - Duration of screening and environmental assessments:

- Are we permanently adding deadlines to the existing SEA and EIA directives? Those directives typically refer to “appropriate” or “reasonable” time frames.
- Environmental assessments are carried out with other authorities (health, municipal, river basin, etc) who propose measures and conditions that require time for implementation and might not be consistent with Article 7 deadlines;
- What is meant by ‘time taken to build the project’ coinciding with other administrative steps in the environmental assessment process?
- When is an application deemed to be complete? Is there one assessment for all stages of the project, i.e. all the different permits required to build, operate etc.?
- Should the public consultation not be a distinct phase of Article 7?
- How are the deadlines set out in Article 7 impacted in case of force majeure?
- Clarifications are required on recital 31

Substantive preclusion:

- The use of terms ‘without prejudice to the right of access to justice’ appears to contradict the objective of the very concept of substantive preclusion.

- How will substantive preclusion operate in different Member States' legal systems where challenges may arise following the administrative appeal but prior to the Judicial Review stage?

Ports

- Which ports are to be considered in the scope of this regulation? Fishing ports or harbours of any particular size?

Fully digitised procedure

- What constitutes a fully digitalised procedure? Is the use of European digital identity wallets and European business wallets necessary?

Waiving assessment fees for SMEs

- Does the "Polluter pays" principle apply to environmental assessments too?
- Which projects and which undertakings should be exempt from fees?
- Which fees should be waived?

Article 8 - Protected species - accidental killings

- Is this a deviation from the Habitats Directive where mitigation measures cannot be considered during Article 6(3) assessment?
- On Mitigation measures: Has the CJEU not ruled that the protection of a species cannot be dependent on its conservation status, but applies to all species regardless of status?

Imperative reasons of overriding public interest (IROPI)

- How is the IROPI applied when the underlying legislation does not have IROPI provisions (e.g. Birds)?
- Can the Commission list types of projects which can be considered IROPI?