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From: General Secretariat of the Council

To: Antici Group (Simplification)

Subject: Omnibus V – Compiled comments on Defence Readiness (ddl 11/11)_ part 3

Following the meeting of the AGS on 7 November on the Omnibus V - Defence Readiness (*Proposals on Simplification of security; Defence readiness; Acceleration of permit-granting*), delegations will find additional comments as received from PL.

Omnibus V – Poland's supplementary comments
November 12th, 2025

Poland welcomes the initiative to simplify the procedures related to defence readiness projects, procurement, and investment. At the same time we recognise also that some areas that still require some changes and clarification.

Permit-granting

Poland generally opposes the proposal for tacit approval. The 60-day period is considered unrealistic in the light of procedural obligations. The considered adequate and preferable timeline is 90 days (with secured possibility of the extension to 120 days under specific circumstances).

1. Poland indicates the potential difficulties in implementing Article 5(2): *“Where a defence readiness project requires the construction of several facilities or units, the project promoter may, in agreement with the single point of contact, split the project into smaller projects.”* The provision above may be difficult to implement in light of Directive 2011/92/EU, which rules out subdividing projects in a way that the environmental impact assessment procedure is omitted, possibly by reducing the scope of a major project through its division into several smaller ones.
2. Art. 5, paragraph 8 (application of tacit approval for permits)
Poland maintains the position that the permits covered by the application shall not be deemed to be granted in the way of tacit approval. Thus, PL supports the position of SE (the deletion of entire article 5-8).

It should be noted that, pursuant to Article 1(3) of Directive 2011/92/EU, the Polish law already provides numerous exemptions and simplifications for defence projects.

3. Art. 7. Priority status of defence readiness projects - *a defence readiness project* is defined as actions, investments and measures intended to increase the defence readiness of Member States, also by developing the defence industry. The preamble states: *This includes ensuring the availability of defence industrial capacity required to acquire and maintain the necessary resources, capabilities, and infrastructure with the aim of responding effectively to such crises.* Poland points out that it would be appropriate to expressly include *dual-use infrastructure* in the definition set out in the draft regulation or by supplementing recital 3.
4. We suggest deleting Article 8 (regarding conventions) from the draft regulation. Poland is a party to numerous conventions; accordingly, citing three selected instruments does not seem justified. It merely reiterates the existing legal situation and lacks justification to be included.

This Regulation is without prejudice, where relevant, to the obligations under the United Nations Economic Commission for Europe (UNECE) Convention on Access to

Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, signed at Aarhus on 25 June 1998, and under the UNECE Convention on environmental impact assessment in a transboundary context, signed at Espoo on 25 February 1991 and its Protocol on Strategic Environmental Assessment, signed in Kyiv on 21 May 2003

5. We also ask for adding a clarification in the recitals that since it is up to the Member States to decide which defense readiness projects qualify under this regulation, the regulation is without prejudice to application of national law concerning granting the permits for the defense readiness projects.

As a general remark Poland is of the opinion that in light of the above, it is worthwhile to:

- a) initiate a review of environmental procedure regulations in light of the specific nature of readiness-related tasks, and the inclusion of measures to accelerate procedures in this area.

As for suggested solutions, it would seem appropriate to:

- consider excluding dual-use investments from certain stages of the strategic environmental assessment related to the analysis of alternative solutions. The location of such investments is determined by defence objectives and detailed alternatives that bypass key environmental elements will be examined at the project assessment stage;
 - carry out an analysis of the procedures on screening for environmental assessment so that, in cases involving reconstruction and adaptation of dual-use railway or port infrastructure, there would be a possibility to limit the applicable environmental procedures;
 - amend appeal mechanisms, so that they are triggered only where a complaint contains specific, substantiated claims and comments;
 - allow preparatory works and obtain subsequent administrative decisions to proceed notwithstanding pending appeal proceedings.
- b) extend the application of Article 2(4) of the EIA Directive to dual-use investments. Now the exemptions apply only to projects whose sole purpose is defence, including operations of allied forces conducted on the territories of Member States. Exempting a given undertaking from the Directive's requirements in "exceptional cases" and, in such cases, allowing an alternative form of assessment as provided for in Article 2(4) of the EIA Directive are subject to strict conditions and lengthy coordination procedures (see the Guidance on the application of the exemptions under the Environmental Impact Assessment Directive — Article 1(3), Article 2(4) and (5)), which in practice rule out their use as an effective support tool and do not permit the introduction of expedited procedures.

Intra-EU Transfers and Security and Defence Procurement - recitals

1. PL advises the addition of new wording within the recital 4a.:
„If the Coordination Group deems it necessary to remove barriers to the intra-community transfer of defence goods that are identified by the Group, assessing

recommendations previously adopted by the Commission as insufficient, the Commission will consider undertaking the legislative initiative to revise this Directive”.

Supplementing recital 4a by this sentence does not change the general rule that the Commission is entitled to initiate the revision of the Directive but underlines the determination of Member States in reaching the harmonisation, as well as mitigates the risk that the recommendations adopted by the Commission are not effective.

Intra-EU Transfers and Security and Defence Procurement - Directive 2009/43/EC

1. Article 5(2)(b) and (ba) — under the current Intra-EU Transfers Directive, there exists the institution of the certified recipient. Possession of such a certificate indicates, i.a. that the entity has implemented appropriate security procedures and is a reliable recipient of defence products. It also simplifies procedures for obtaining a certificate to trade in defence products. The draft regulation proposes to extend the scope of the certification: in addition to the certified recipient, it introduces a certified supplier. It is not specified whether a certified undertaking would simultaneously be a certified recipient and a certified supplier, or whether obtaining these authorisations would require separate procedures. Poland requests clarification on this matter.
2. Article 13c – PL supports the amendments allowing for the extended participation of delegates to the Coordination Group (one representative and up to two alternates – art. 13c-1). In similar manner PL supports statement in art. 13c-6 in regard to the reporting obligation as a lower priority in comparison to the Member States’ need to protect classified information or sensitive information.

Intra-EU Transfers and Security and Defence Procurement - Directive 2009/81/EC

1. With regard to Article 28.2 PL supports the PRES compromise proposal to maintain a flexible approach to procurement in the directive (maintaining the current compromise proposal and not adding preferences for “Buy European”).

Regulation on Defence Readiness and Facilitating Defence Investments and Conditions for Defence Industry

1. Poland supports the introduction of indirect management within the EDF, provided this is the responsibility of specialized entities with committee involvement of the MS (such as EDA or OCCAR).