



Council of the European Union
General Secretariat

Brussels, 07 December 2023

Interinstitutional files:
2021/0420 (COD)

WK 16481/2023 INIT

LIMITE

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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Transport - Intermodal Questions and Networks
N° Cion doc.:	ST 15109 2021 INIT
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 (Text with EEA relevance) - Presidency compromise on Article 47

Delegations will find attached a Presidency compromise on Article 47 of the above proposal.

Article 47: Risks to security or public order

1. Member States shall make all possible efforts to ensure that the infrastructure of the trans-European transport network is protected against risks to security or public order, by assessing the potential risks to security or public order arising from participations of or contributions of any kind by a natural person of a third country or an undertaking of a third country in a project of common interest.
2. In determining whether the participation or the contribution of a natural person of a third country or an undertaking of a third country is likely to affect infrastructure on grounds of security or public order, Member States may consider its potential effects, inter alia on:
 - (a) supply of inputs essential for the building, operation and maintenance of the infrastructure;
 - (b) access to sensitive information, including personal data, or the ability to control such information in conjunction with the building, operation and maintenance of the infrastructure.

Member States may also take into account, in particular, the factors listed under Article 4(2) of Regulation (EU) 2019/452.

3. Without prejudice to Regulation (EU) 2019/452, to each Member State having sole responsibility for its national security, as provided for in Article 4(2) TEU, and to the right of each Member State to protect its essential security interests in accordance with Article 346 TFEU, whenever a Member State considers that the participation or contribution of any kind by a natural person of a third country or an undertaking of a third country is likely to affect infrastructure on the trans-European transport network on grounds of security or public order, that Member State shall inform the European Commission of any appropriate measures adopted to mitigate such risk.

This Article shall not apply to the participation or contribution of a natural person performing for a certain period services for and under the direction of another person in return for which he receives remuneration.