



Council of the European Union
General Secretariat

**Interinstitutional files:
2018/0138(COD)**

Brussels, 10 May 2019

WK 3534/2019 ADD 4

LIMITE

**TRANS
CODEC**

WORKING PAPER

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CONTRIBUTION

From:	General Secretariat of the Council
To:	Working Party on Transport - Intermodal Questions and Networks
N° prev. doc.:	8687/19
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on streamlining measures for advancing the realisation of the trans-European transport network - Comments by Austria

Delegations will find attached written comments by Austria on the above-mentioned proposal.

AT proposals related to Smart TEN-T

Recital (11):

- (11) Public procurement in cross-border projects of common interest should be conducted in accordance with the Treaty and Directives 2014/25/EU and/or 2014/24/EU. In order to ensure the efficient completion of the cross-border core network projects of common interest, public procurement carried out by a joint entity should be subject to a single national legislation. By way of derogation from the Union public procurement legislation, the applicable national rules should in principle be those of the Member State where the joint entity has its registered office. It should remain possible to define the applicable legislation in an intergovernmental agreement. **For reasons of legal certainty, Member States participating in a joint entity set up before [entry into force of Directive] may jointly decide that current procurement strategies remain applicable for that joint entity. Article 8 should not apply to calls for tender or procurement procedures, for which preparations have already begun before [entry into force of Directive].**

Article 10

Transitional provisions

This Directive shall not apply to the permit granting procedures which started before [24 months following the entry into force of this Directive].

Article 9 shall only apply to such contracts for which the call for competition has been sent or, in cases where a call for competition is not foreseen, where the contracting authority or contracting entity has commenced the procurement procedure after [OJ: 24 months following the entry into force of this Directive force].

Member States participating in a joint entity set up before [entry into force of Directive] may jointly decide that Article 8 shall not apply to procurement procedures by that joint entity.

Article 8 shall not apply to calls for tender or procurement procedures for which preparations have already begun before [entry into force of Directive].

Justification for AT-proposals on Recital (11) and Article 10:

AT generally welcomes the latest compromise proposal, especially for future projects. However, there must be legal certainty for ongoing activities and preparations regarding calls for tenders and procurement procedures taking into consideration that they are often complex and very costly.

In order to ensure legal and economic certainty for activities and preparations regarding tender documents and procurement procedures already underway AT believes it is essential to include this clarification in the text.