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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 8884/23 ST 9454/23
N° Cion doc.:	ST 15109/21
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 - Four-column document - Comments by Italy

Delegations will find in the annex, comments by Italy on ST 8884/23 and on the Presidency compromise proposals on Chapter I (ST 9454/23).

IT PRELIMINARY COMMENTS ON

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

Four-column document

In the document some preliminary proposals to amend the classification into three categories of political importance of the amendment are indicated.

Moreover, some preliminary observations are included, pointing out that most of the proposed amendments generate potential issues, with regard to which there are limited flexibility to accept them, therefore It asks to stick as much as possible to the general approach.

As a general comment, IT would point out the introduction of many themes by the EP which appear to go, in the proposed formulations, beyond the objective and scope of the Regulation under discussion and which are linked to:

- **authorisation decision and designated authority in synergy with the Directive Smart TEN-T**

Line 144a - IT amendment to the Presidency compromise proposes which merge lines 144a and 144b:

(ao) '**project** authorising decision' means the decision or a set of decisions, which may be of an administrative nature, taken simultaneously or successively by an authority or by authorities of a Member State, not including administrative and judicial appeal authorities, under a national legal system and administrative law that determine whether or not a project promoter is entitled to implement the project on the geographical area concerned ~~on the core, extended core or comprehensive network~~, without prejudice to any decision taken in the context of an administrative or judicial appeal procedure, **in accordance with Directive (EU) 2021/1187 of the European Parliament and the Council (the "Smart TEN-T Directive")**;

Justification:

The definition should be the same of the Directive (EU) 2021/1187. IT can express flexibility in connection with line 751 (art.56(1)) text of GA - but it should be also discussed together with the political point line 303i (art.16a(4)).

Line 144d - IT amendment to the Presidency compromise

(anc) 'critical infrastructure' means an asset, system or part thereof ~~used for transport purposes and~~ located in ~~one or more~~ Member States which is essential for the maintenance of vital societal functions, health, safety, security, ~~defence~~, economic or social well-being of people, and the disruption or destruction of which would have a significant impact in a Member State as a result of the failure to maintain those functions;

Justification:

The wording should be in compliance with EU Directive 114/2008 as follows:

(a) 'critical infrastructure' means an asset, system or part thereof located in Member States which is essential for the maintenance of vital societal functions, health, safety, security, economic or social well-being of

people, and the disruption or destruction of which would have a significant impact in a Member State as a result of the failure to maintain those functions;

line 144c, 158a, 158b, 303i *it is proposed and confirmed as political points (C)*

- **military mobility** and dual requirements (173b, 198a, 237c, 242e, 401a, 645, 658b and c, 693b and 706b) *it is also confirmed to be classified as political points (C)* - still under assessment
- **critical infrastructure** (144d and subsequent references as 172, 183, 235, 242e, 627, 641, 642, 643, 645, 646, 647, 664b) *it is also confirmed to be classified as political points (C)* - *Critical infrastructure should be kept under the umbrella of EU Directive 114/2008 and not in the scope of TEN-T Regulation*
- **financial budget** to be set in the next MFF on the external dimension (211c)
- **interoperable digital network and systems connectivity index** for all transport modes (144f, 158a and b, 693c, 694, 694a, 744a, 744b, 744c, and subsequent references) *it is also confirmed to be classified as political points (C)* - still under assessment

Please find hereafter IT opinion on other **Presidency compromise proposals on Chapter I:**

Lines 109-120-121 – no critical points to be underlined in the Presidency compromise

Line 147 - IT amendment to the Presidency compromise

The trans-European transport network shall strengthen the social, economic and territorial cohesion of the Union and contribute to the creation of a single European transport area which is **competitive**, sustainable, safe, efficient and resilient and which increases the benefits for its users and supports inclusive growth. It shall demonstrate European added value by contributing to the objectives laid down in the following four categories.

Justification:

A comma is missing; IT considers acceptable the above-mentioned modified text for the proposal (with comma included).

Line 150 - IT amendment to the Presidency compromise

(ii) enabling greater use of more sustainable modes of transport, in particular by further developing an **interoperable** long-distance rail passenger network, including at high speed, and an interoperable rail freight network, a reliable inland waterway and short-sea shipping network **for passengers and freight** across the Union **and also by promoting active modes of transport.**

Justification:

This point should be assessed together with compromises on lines 153b and 173a dealing with active mode of transport. In any case, IT proposes to maintain the final sentence also in this point strictly related to its interoperability.

Line 153a (va) – no critical points to be underlined in the Presidency compromise

Line 157 (iii) – no critical points to be underlined in the Presidency compromise

Lines 158a, 158b - the compromises are still under assessment

Line 183 - *it is proposed to classify these points as political (C)* - IT amendment to the Presidency compromise

(h) the adequate consideration of the resilience of the transport network and its infrastructure **and services**, especially at cross-border sections, with regard to a changing climate ~~and geopolitical context~~, as well as natural hazards and human-made disasters, as well as disruptions, intentional or not, including for traffic, with a view to addressing those challenges **and with a view to enabling rapid response and recovery from those disruptions**.

Justification:

IT expresses doubts on the inclusion of services; moreover, the geopolitical context seems already to be included in other quoted categories. The last sentence can be accepted.

Line 185 - IT is not in favour for the Presidency compromise due to the fact that this limitation (authorising decision) can be acceptable for the adaptation under Art.56(1)e but not for adaptation under Article 61(1) otherwise the long-term planning may be affected by short-term authorising decisions.

Line 190 – IT prefers to stick to the GA text; as a compromise proposal IT may assess the following:

The core and extended core network shall consist of those parts of the trans-European transport network which shall be developed ~~and completed~~, as a matter of priority, **and completed in line with the fixed deadlines set in paragraph 1**, for achieving the objectives for the development of the trans-European transport network.

Line 199 – no further comments on PSY compromise proposal which can be considered acceptable

Line 201c - IT prefers to stick to the GA text and, in particular, to the lines 200 and 200a; it is worth to be noticed that streamlined administrative procedures set in Directive 1187/2021 apply to large project (>300mIn euro) along the Corridors and to CEF Annex 1 list.

With reference to the new amendments proposed by the EP, the following elements are some points considered to be particularly critical and, in red, the proposals concerning their classification asked to be changed.

Chapter I

In Article 3 on definitions

118 is rather preferred the GA definition

144g — the definition of significant delay (2 years delay of the project beyond the deadlines provided for in the Regulation) is a critical point, especially with regard to the link with the requirements on measures relating to infringement procedures initiated by the Commission (Article 62), which, according to the Parliament, would become immediate and exhaustive.

In fact, Article 62 below provides that *(i)* in the event of a significant delay in the completion of the project, in compliance with the objectives set by Reg TEN-T (Article 54 of the TEN-T Regulation on reports and objectives of the coordinators and rules provided for in the Smart TEN-T Directive in Article 5), the Commission shall immediately initiate an infringement procedure; *(II)* if the delayed project is financed from European funds, the limitation or revision of the funds dedicated to that project may be arranged.

In Article 4 on network development objectives, the inclusion of the single language as an essential element for interoperability is considered critical. In particular, the proposal includes among the objectives of interoperability for operations also the certification of staff and the use of a universal European language for cross-border operations.

Line 156 – the amendment is still under assessment

The critical points are given below:

Line 162 – Art. 4.2(c)(iii): *'including such as the use of a single Union-wide language for cross-border rail transport;'* IT prefers to stick to the GA

Line 172 – extends the achievement of the objective of resilient infrastructure as well as cross-border links also for critical infrastructure

Line 173b – in line with amendments 237c, 645, 658c and 693b still under assessment

Lines 166a 166b-166c – 166d -173c -173d – 173e – 173f – 176a – 177 – 181 - no critical points to be underlined in the EP amendments

Article 8

Line 200 – IT can show flexibility

Line 201 - It prefers the general approach

Lines 201a – 201 b – still under assessment

Line 201d - *By ... [6 months from the date of entry into force of this Regulation] the Commission shall establish, through an implementing act, a harmonised methodology for the socio-economic cost-benefit analysis of projects of common interest referred to in paragraph 2 and paragraph 5b of this Article. That methodology shall enable a transparent, comparative appraisal of different project proposals under life cycle assessments, including the prioritisation of projects in terms of European added value, notably as regards cross-border sections, missing links, multimodal connecting points and bottlenecks* – It should be noted that the Commission has published Costs and Benefits guidelines in the framework of EU Funds (in 2014) and we may encourage new common rules on this topic.

Article 9

Line 211c - IT prefers the general approach the percentage seems to be too high

Chapter II

Article 10

Line 220 This amendment binds the requirements to be met in the state of implementation of the network for each MS by creating a dynamic constraint that is difficult to comply with – *it is also proposed to classify this point as political (C)*

Article 13

Lines 247, 248, 251c - IT prefers the general approach the amendments are too binding and demanding.

Chapter III

Article 15 'Transport infrastructure requirements for the comprehensive network': the EP maintains the very challenging infrastructure requirements of the Commission proposal and excludes the possibility of requesting exemption from certain parameters. **Therefore, the position of the EU Council (GA) as set out in Article 15 should be supported (in particular 282)**

Line 287 – a clarification on the chosen classification would be useful

Article 16 'Transport infrastructure requirements for the core network and the extended core network' (rail): similarly to the previous point, the EP maintains the very challenging infrastructure requirements of the Commission proposal and excludes the possibility of requesting exemption from certain parameters (axle load and line module on core and extended core network). **Therefore, the position of the EU Council (GA) as set out in Article 16 should be supported (in particular 290-295).**

In Article 17 on ERTMS, the new proposal to regulate cross-border rail traffic management in the next future, which should be included among potential issues, deserves further deepening. In particular, the Commission is expected to submit a legislative proposal for Rail Traffic Management System within two years in order to improve cross-border operations.

The critical point is given below:

Line 312 g — Art. 17(6c) NEW: *The Commission will consider providing, within two years from the date of entry in force of this Regulation, a legislative proposal for establishing a harmonised Rail Traffic Management System in order to improve cross-border operations on the trans-European transport network.*

In Article 18 on operational requirements for rail networks, the proposal to allocate DCM to ERA is considered by the sector to be extremely critical and refers to necessary updates on this point. In particular, the Commission, in cooperation with MS and stakeholders, is expected to ensure the development of Digital Capacity Management that facilitates booking cargo and passenger slots by 2025. The DCM is managed by ERA and Member States shall extend it to the extended and central TEN-T networks by 2027.

The critical point is given below:

Line 317a — Art. 18(2a) NEW: *The Commission, in close cooperation with all the rail stakeholders, shall ensure that a digital capacity management system, which enables passenger and freight operators to book a cross-border train path across several Member States, will be developed by 31 December 2025. The capacity management system will be operated by the European Railway Agency. Member States shall fully deploy the system on the European Transport Corridors, core and extended core networks by 31 December 2027.*

Article 23

Line 383 - IT can show flexibility

Article 24

Lines 386-400 - IT prefers the general approach

As regards Article 29(2)(c) which laid down an obligation to provide along the TEN-T Comprehensive road network 'safe and secure parking areas' at a maximum distance of 100 km from each other, it should be noted that this paragraph was deleted in the GA. The European Parliament, on the other hand, proposed to reintroduce the paragraph, also adding the deadline of 31 December 2040 as the deadline by which Member States should take action. **The amendment made by the Parliament therefore appears to be contrary to the provisions of the GA and it is certainly a more burdensome requirement for the Member State.**

With reference to **Article 29(2)(b)**, it should be noted that the General Guidelines provide for an obligation for States to make parking areas available at a distance of up to 100 km from each other. The Parliament repropose a distance between one parking area and the other equal to 60 km. **In this case too, this is a more burdensome requirement for the State and is contrary to what is defined in the General Guidelines considered preferable.**

Similarly, in **Article 30 (3)**, the European Parliament requires Member States to comply with the obligation to provide safe parking spaces at a maximum distance of 100 km from each other for the road infrastructure of core and extended networks by 31 December 2030. In the general approach this obligation had been eliminated and it was only foreseen that "Member States shall make every effort to ensure the development of safe and secure parking areas located on the roads of the core network and the extended core network or within a road distance of 3 km from the nearest exit from the road of the trans-European transport network, with a distance of 150 km between two such areas on average, providing sufficient parking space for commercial vehicles and meeting the requirements of Article 8a(1) of Regulation (EC) No 561/2006 by 31 December 2040". **It is clear that the prescription as amended by the European Parliament appears to be more burdensome.**

Chapter IV

Line 598 - IT prefers to stick to the GA

Article 44 on "New Technologies and Innovation"

Line 607 – IT considers acceptable the EP proposal to include "locomotives" in the GA text

Line 608 — **Article 44, first paragraph, point (b): *it is proposed to classify this point as political (C)***

Line 609 – IT prefers the General Approach even if similar to the EP proposal

Lines 611- IT can express a preliminary neutral position

Lines 614 - 619- 621- IT prefers to stick to the GA

Lines 617 -624 -625- IT can express a preliminary neutral position

Lines 626 – still under evaluation

Line 627 - As regards **Article 46(2)**, the General Guideline lays down the obligation to 'climate proof' projects of common interest relating to the TEN-T network, excluding projects for which the procurement procedure for the environmental impact assessment was initiated before the entry into force of the Regulation. The European Parliament maintained the original requirement, proposing that the obligation should not apply only to projects for which the environmental impact assessment was completed before the entry into force of the Regulation. **In this case too, the limitation period as proposed by Parliament is more burdensome because it extends the scope of the obligation.** IT prefers to stick to the GA

Line 627a- still under evaluation

Line 627b –it is proposed that by 31 December 2025, Member States shall carry out an assessment to identify, on their core and comprehensive network, all existing transport critical infrastructures, including in respect of all modes, and assess their resilience to climate change, through a climate and environmental vulnerability test and risk assessment. Moreover, By 31 December 2029, Member States will have to take all the necessary measures to upgrade these infrastructures. **The provision could be critical and very onerous due to the too strict timing.**

From line 628 to line 658 – IT prefers the GA text; the items had been extensively discussed before reaching the GA. For **Line 636a**, in particular, the proposal has to be evaluated in the light of the protection of security and public order context.

Lines 658b, 658 c and 693b the obligation cannot be shared. IT proposes to stick to GA.

In Article 48, on the maintenance and life cycle of infrastructure, the EP introduces a critical funding factor, as it is excessively ambitious when linked to long-term forecasting. Compliance with the long-term

maintenance criteria and the life cycle of the project, as well as the forecasting of full project costs, is expected to be conditional to obtain CEF funds.

The critical points are indicated below:

Line 661, 663 664a and 664b – IT prefers GA text. The criticality of the provision of long-term maintenance plans which become a necessary condition for obtaining the CEF funds has already been highlighted in the past. As well as the provision of monitoring plans for the maintenance of the TEN-T core network by the Commission.

Line 664a — Art. 48(da) NEW: "*compliance with paragraph 1, points (b) and (c) is a precondition for receiving funding from the CEF.*"

Chapter V

Line 669 the reference to the "missing links" should be maintained because it is considered relevant

Line 673 - IT prefers GA text; the reference to IWW is already correctly included in line 671 on modal integration which seems more consistent

Lines 676 – 706a- IT can express a preliminary neutral position

Line 689 - Art. 51(6) point (a) - IT prefers GA text. The current governance of the freight corridors ensures the decision-making powers of the member states and infrastructure managers for the respective competences, also with a view to continuous consultation of all stakeholders. The proposal of the EP seems to go in the direction of merging the different governances under the European coordinator. Therefore, a single structure of the transport corridors as formulated in the amendment does not provide the same representativeness of the specific needs/problems of the member states and of the infrastructure managers as the one guaranteed by the current governance.

Line 693 - IT prefers to stick to the GA text; as a compromise proposal IT may assess the following:

(b) ~~monitor administrative, operational and interoperability aspects of passenger traffic on the rail passenger lines of the European Transport Corridors, including monitoring in close cooperation with infrastructure managers, monitor the performance of rail passenger services especially of cross-border sections~~

Lines 694 – 698-- IT prefers to stick to the GA

Line 706a- IT can express a preliminary neutral position

Line 707a - still under assessment

Lines 708-710 - IT prefers to stick to the GA

Lines 710a-710b- still under assessment

Lines 718-721-731 - IT prefers to stick to the GA

Line 718a - still under assessment

Line 733a – Art. 53(4) point (ca) - IT thinks that immediate notification to the Commission of projects that are more than 2 years late and which require the launch of infringement proceedings could be critical.

Line 735- IT prefers to stick to the GA

From line 738a to 738h - excessive burden and efforts are expected. IT proposes to delete these provisions.

Line 738k critical prioritization policy. IT proposes to delete this provision.

Chapter VI

Line 741 - Art. 55(1) - IT prefers to stick to the GA text that foresees the deletion of the reference to the obligation of the annual data communication as proposed by the Commission and supported by the Parliament.

Line 744 - Art. 55(3) - IT prefers to stick to the GA text which leaves to the Member States greater flexibility in implementing the information exchange system (TENtec)

Line 744a - Art. 55(3a) – a deep assessment is required: it has to be evaluated potential impacts with reference to Eu funds allocation

Line 744d – Art. 55(3d) – a deep assessment is required: it has to be assessed potential impacts on the activities of the RFCs and consistency with respect to the market studies that are being developed within the RNE.

Lines 750-751- IT prefers to stick to the GA

Line 761 – Art. 58(3) – IT would like to strongly confirm the GA text that eliminated the strict 12-months' time limit proposed by EP.

Lines 773-775 - still under assessment

Lines 776-777-784-785 - IT prefers to stick to the GA

Line 785a – Art. 62(2a) – the following point is also particularly critical: Article 62(2a) NEW: *In the event of a significant delay in starting or completing work on the core network, extended core network and on the comprehensive network compared to the initial timeline set in implementing acts referred to in Article 54 of this Regulation or defined in national transport and investment plans or other relevant project documentation, as well as delays for projects as set in Article 5 of the Smart TEN-T Directive, the Commission shall immediately launch an infringement procedure.*

IT prefers to stick to the GA due to the EP proposed amendment that appears critical and highly penalizing given the definition of significant delay proposed.

Line 785b – Art. 62(2b) – the following point is also particularly critical: Article 62(2b) NEW: *In the event that the delayed or significantly delayed section concerns a project supported with Union funds under direct management, a reduction of the amount of the grant and/or an amendment or termination of the grant agreement may be initiated in accordance with the applicable rules.*

IT prefers to stick to the GA due to the EP proposed amendment that appears critical and highly penalizing also considering the possible impacts with respect to the reduction of the allocated EU funds.

Line 786- IT prefers to stick to the GA

Line 845 flexibility can be shown with the inclusion of "access routes"