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NOTE

From:	General Secretariat of the Council
To:	Working Party on Transport - Intermodal Questions and Networks
N° Cion doc.:	9075/18 + ADD 1 - ADD 3
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 delegations

Delegations will find attached written comments by Estonia and Italy on the above proposal.

DOCUMENT OF THE ITALIAN DELEGATION

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL**

**on streamlining measures for advancing the realization of the trans-European
transport network**

Article 4

Integration of permit granting procedures

1. In order to meet the time limits set out in Article 6 and reduce the administrative burden related to the **authorization and the** completion of projects of common interest, all the administrative procedures, **including all the permits**, resulting from the applicable law, both national and of the Union, shall be integrated and result in only one comprehensive decision.

Justification

It is useful to precise that the approval process of the projects often involves administrative procedures that are even longer and more complex than those related to the completion of the projects. Furthermore, it is also necessary to specify that the "administrative procedures" include the different opinions and permits (issued by local, regional, national or any other authority according to the current legislation), that are necessary for the completion of the approval process and the completion of projects, in order to avoid different interpretations and incoherent implementation of the regulation among the Member States.

Article 5

Single competent permit granting authority

1. By ... (*OP please insert the date one year of the entry into force of this Regulation*), each Member State shall designate one single competent authority, **even pre-existing at the entry into force of this Regulation**, on which shall be responsible for facilitating the permit granting process including for making the comprehensive decision.

Justification

It is useful to foresee the possibility to avoid duplication of entities, if these are already set up and comply with the national legislation and the requirements of this proposal of regulation too.

New 6)

The single competent authority may also perform the duties arising from this Regulation, in compliance with European law and national legislation, for the approval of specific exceptional common interest projects, of outermost necessity and urgency, such as interventions of reconstruction in the case of natural or caused by humans disasters or in the case of destruction affecting their total or partial accessibility and/or usability.

Justification

It is useful to consider that the competent authority shall be involved even in cases of necessity and urgency in which, only for common interest projects, the Member States are obliged to intervene as a result of natural disasters (e.g. earthquakes, eruptions, etc.) or terrorist attacks or events that are in any case destructive, that make a certain infrastructure no longer usable and that need urgent rehabilitation actions. A single competent authority can speed up the procedures in these particular situations (as, for instance, the appointment of a special Commissioner designated in case of earthquakes or for collapse of the "Morandi" Bridge in Genoa.

Article 6

Duration and implementation of the permit granting procedure

7. At the latest within the period of two months from the date of submission of the complete application file, the competent authority shall acknowledge in writing the completeness of the application file and communicate it to the project promoter. The application file submitted by the project promoter shall be considered as being complete, unless, within the period of two months from the date of submission, the competent authority makes a request regarding missing information to be submitted by the project promoter, **except for any requests of information and/or integration to the documentation requested by the single competent authority when assessing the application and adopting the comprehensive decision referred to in paragraph 8 of this article.** That request shall be limited, as regards the material scope and level of detail, to the elements identified in the

detailed application outline. Any additional request for information shall only result from exceptional and unforeseen new circumstances and shall be duly justified by the single competent authority.

Justification

It is necessary to guarantee the compliance with national law concerning the project promoter participation all along the authorization process, including the evaluation phase and the adoption of the final decision. For the same reason we still evaluate possible amendments to paragraphs 7 and 8.

Article 11

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union

According to us a too short timeframe is proposed to guarantee the effectiveness of the entry into force: we will propose to extend it.

Brussels, 17.5.2018
COM(2018) 277 final

2018/0138 (COD)

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

{SEC(2018) 228 final} - {SWD(2018) 178 final} - {SWD(2018) 179 final}

COMMENTS BY THE ESTONIAN DELEGATION

Initial remarks:

The proposed regulation should be clearly applicable and practical and should not entail excessive additional administrative costs for Member States.

The preparation of application documents for the projects (i.e. spatial planning and environmental assessments, pre- and master design phases and their permit granting procedure) prior to the authorization procedure made by single competent authority must be clearly distinguished from the consolidated statement procedure (stated as a comprehensive decision in the draft text). In this case and based on the real practice, the three-year deadline for the permitting procedure and issuing consolidated statement set out in the draft regulation can be achievable.

It is necessary to respect the competences and independence of different national permit granting authorities. The draft regulation should recognize the organizational set up of environmental impact assessment licensing systems in Member States. Idea is to give flexibility for Member States to leave environmental permits, including EIA and Natura 2000, out of the scope of the application phase.

The single competent body proposed in the draft regulation can have a coordination function and a notification function for collecting various permits, which accept the professional and binding expertise of different national authorities with different competencies and works closely with the coordinators of the TEN-T core network corridors.

Consolidated statement consists of approved spatial planning documents (incl. detailed planning documents), package of approved environmental impact assessment documents (incl. Natura 2000 assessments) and building permits issued by the different authorities and by single competent body itself. The idea behind is that consolidated statement is the final green light for the project after individual permits, decisions and opinions obtained.

The deadline for the entry into force of the draft regulation should be sufficient (at least 2 years).

2018/0138 (COD)

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

Article 1

Definitions

For the purposes of this Regulation, the definitions set out in Regulation (EU) No 1315/2013 shall apply. The following definitions shall also apply:

- ~~(a) "comprehensive decision" means the decision or set of decisions taken by a Member State authority or authorities not including courts or tribunals that determines whether or not a project promoter is to be granted authorisation to build the transport infrastructure needed to complete a project without prejudice to any decision taken in the context of an administrative appeal procedure;~~
- (a) "consolidated statement" means the final package of necessary documents consolidated by a Member State competent authority not including courts or tribunals that determines whether or not a project promoter is given approval to build the transport infrastructure needed to complete a project without prejudice to any decision taken in the context of an administrative appeal procedure;**
- (b) "permit granting procedures" means every procedure that has to be followed or step that has to be taken before the authorities of a Member State, under Union or national law, before the project promoter can implement the project;
- (c) "Project promoter" means the applicant for authorisation for a private project or the public authority which initiates a project";

- (d) "single competent authority" means the authority which the Member State designates as responsible for performing the duties arising from this Regulation;
- (e) "Cross-border project of common interest" means a project of common interest according to Article 7 of Regulation (EU) No 1315/2013 covering a cross-border section as defined in point (m) Article 3 of that Regulation which is implemented by a joint entity.

CHAPTER II – PERMIT GRANTING

Article 2

‘Priority status’ of projects of common interest

1. Each project of common interest on the TEN-T core network shall be subject to ~~an integrated permit granting procedure managed~~ **coordinated** by a single competent authority designated by each Member State in accordance with Articles 5 and 6.
2. Where priority status exists under national law, projects of common interest shall be granted the status with the highest national significance possible, and be treated as such in permit granting procedures, where and in the manner such treatment is provided for in national legislation applicable to the corresponding types of transport infrastructure.
3. To ensure efficient administrative procedures related to projects of common interest, project promoters and all authorities concerned shall ensure that the most rapid treatment legally possible is given to these projects, including as regards the resources allocated.

Article 3

Integration of permit granting procedures

1. In order to meet the time limits set out in Article 6 and reduce the administrative burden related to the completion of projects of common interest, all the administrative procedures resulting from the applicable law, both national and of the Union, shall be integrated and result in only one comprehensive **consolidated statement** ~~decision~~.
2. In the case of projects of common interest for which the obligation to carry out assessments of the effects on the environment arises simultaneously from Directive 2011/92/EU of the European Parliament and of the Council and other Union law, Member States shall ensure that joint procedures within the meaning of Article 2(3) of Directive 2011/92/EU are provided for. **The assessments shall be carried out before pre-application phase referred to in Article 6.**

Article 4

Single competent consolidated statement permit granting authority

1. By ... *(OP please insert the date one year of the entry into force of this Regulation)*, each Member State shall **ensure** ~~designate one~~ single competent authority which shall be responsible for facilitating the permits granting process including for making the **consolidated statement** ~~(corrections to be inserted accordingly throughout the text)~~ **comprehensive decision**.
2. The responsibility of the single competent authority referred to in paragraph 1 ~~and/or the tasks related to it may be delegated to, or carried out by, another authority at the appropriate administrative level, per project of common interest or per particular category of projects of common interest, under the following conditions~~ **consists of the following principles**:
 - (a) only one authority is responsible per project of common interest;
 - (b) the authority is the sole point of contact for the project promoter in the procedure leading to the comprehensive decision for a given project of common interest, and
 - (c) the authority coordinates the submission of all relevant documents and information.

The single competent authority may retain the responsibility to establish time limits, without prejudice to the time limits set in accordance with Article 6.
3. The single competent authority shall issue the **consolidated statement** ~~comprehensive decision~~ within the time limits specified in Article 6. It shall do so following joint procedures.

The **consolidated statement** ~~comprehensive decision~~ issued by the single competent authority shall be the **package of** ~~sole~~ legally binding decisions resulting from the ~~statutory~~ permit granting procedures. Where other authorities are concerned by the project, they **shall exercise their competences** ~~may give their opinion as input to the procedure~~, in accordance with national legislation. This opinion shall be taken into account by the single competent authority.
4. When taking the **consolidated statement** ~~comprehensive decision~~, the single competent authority shall ensure that the relevant requirements under international and Union law are respected and shall duly justify its decision.
5. If a project of common interest requires decisions to be taken in two or more Member States, the respective competent authorities shall take all the necessary steps for efficient and effective cooperation and coordination among themselves. Without prejudice to obligations arising under applicable Union and international law, Member States shall endeavour to provide for joint procedures, particularly with regard to the assessment of environmental impacts.

Article 5

Duration and implementation of the consolidated statement permit granting procedure

1. The permit granting procedure shall consist of the pre-application phase and the ~~phase of the assessment of the application and the~~ **consolidated statement procedure** ~~decision-making~~ by the single competent authority.

2. The pre-application phase, covering the period from the start of the permit granting procedure to the submission of the complete application file to the single competent authority, shall in principle not exceed two years.
3. In order to ~~launch~~ **continue** the **phase of assessment of the applications** ~~permit granting procedure~~, the project promoter shall notify the single competent authority of the Member States concerned about the project in writing, and shall include a detailed description of the project. ~~No later than two months following the receipt of the above notification, the single competent authority shall either acknowledge it or, if it considers that the project is not mature enough to enter the permit granting procedure, reject the notification in writing. If the single competent authority decides to reject the notification, it shall justify its decision.~~ The date of signature of the acknowledgement of the notification by the competent authority shall serve as the start of the permit granting procedure. If two or more Member States are concerned, the date of the acceptance of the last notification by the competent authority concerned shall serve as the date of the start of the permit granting procedure.
4. Within three months of the start of the permit granting procedure, the single competent authority, in close cooperation with the project promoter and other authorities concerned and taking into account the information submitted by the project promoter on the basis of the notification referred to in paragraph 3, shall establish and communicate to the project promoter a detailed application outline, containing:
 - (a) the material scope and level of detail of information to be submitted by the project promoter, as part of the application file for the **consolidated statement** ~~comprehensive decision~~
 - (b) a schedule for the permit granting process, identifying at least the following:
 - (i) the **permits**, decisions and opinions to be obtained;
 - (ii) the authorities, stakeholders, and the public likely to be concerned;
 - (iii) the individual stages of the procedure and their duration;
 - (iv) major milestones to be accomplished and their deadlines in view of the comprehensive decision to be taken;
 - (v) the resources planned by the authorities and possible additional resource needs.
5. In order to ensure that the application file is complete and of adequate quality, the project promoter shall seek the single competent authority's opinion on its application as early as possible during the pre-application procedure. The project promoter shall cooperate fully with the single competent authority to meet deadlines and comply with the detailed application outline as defined in paragraph 4.
6. The project promoter shall submit the application file based on the detailed application outline within the period of 21 months from the receipt of that detailed application outline. After the expiry of that period, the detailed application outline is no longer considered applicable, unless the single competent authority decides to prolong that period, on the basis of a justified request from the project promoter.
7. At the latest within the period of two months from the date of submission of the complete application files, the competent authority shall acknowledge in writing the completeness of the application file and communicate it to the project promoter. The

application file submitted by the project promoter shall be considered as being complete, unless, within the period of two months from the date of submission, the competent authority makes a request regarding missing information to be submitted by the project promoter. That request shall be limited, as regards the material scope and level of detail, to the elements identified in the detailed application outline. Any additional request for information shall only result from exceptional and unforeseen new circumstances and shall be duly justified by the single competent authority.

8. The single competent authority shall assess the application and adopt a comprehensive decision within the period of one year from the date of submission of the complete application file in accordance with paragraph 7. Member States may set an earlier time-limit, where appropriate.
9. The time limits in the above provisions shall be without prejudice to obligations arising from Union and international legal acts, as well as to administrative appeal procedures and judicial remedies before a court or tribunal.