

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 COM(2018) 277 (document n. 11273/1/19 rev1)

Italy proposes some amendments and comments on 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, reserving the right to complement this documents with further comments and amendment proposals during the negotiation.

Italy welcomes the general objective of the proposal, namely the harmonization of the authorization procedures, including the environmental impact assessment procedures, in order to guarantee the efficacy of the procedure itself in a defined time frame; nevertheless there are some concerns on the present text as regards the feasibility of the authorization procedures, that are set out in an abstract way; furthermore, this text, that opens to specific different approaches of MS, seems to jeopardise the target to reach an added value to the current legislation framework and in such a way it loose its original purpose.

- ***Recital (3)***

General comment: *With regard to the provision to include shorter timeframes in the EIA proceedings, the EIA legislation in force, according to the amendments made by Italian legislation (Legislative Decree 104/2017) provides for peremptory procedural time limits and the reduction of of such time frameis very difficult to implement, also due to the considerable articulation and high complexity of the related projects.*

- ***Article (1) Subject matter and scope***

1. This Directive shall apply to the permit-granting procedures required in order to authorise the implementation of projects ~~that are part of pre-identified sections of TEN-T core network as listed in Part III the Annex Regulation of the European Parliament and of the Council establishing the Connecting Europe Facility and repealing Regulations (EU) No 1316/2013 and (EU) No 283/2014~~ **on the core network corridors of the trans-European transport network, including Horizontal Priorities,** with the exception of projects exclusively related to telematic applications, new technology and innovation as defined in articles 31 and 33 of Regulation 1315/2013.

Justification: We prefer the previous wording of the scope without referring to a specific list of projects which appears too binding and restrictive. Furthermore, the new CEF 2.0 Regulation has not yet been adopte, so it would be better to refer to the legislation in force. Furthermore we believe that it is important to underline the maritime dimension of the network including the MOS and ports horizontal priorities, otherwise the land dimension should be excessively reinforced. Moreover we express a scrutiny reservation on the exclusions reported in the final part of the article concerning TAs and new technology, innovation actions on which some discussions are still ongoing.

- **Article (2b) Definitions- permit granting procedures**

General comment: it is not clear if the objectives of a common interest project will prevail over any conflicting indications of the plans regarding national and/or regional transport. It would be useful to clarify how a consistency evaluation between transport strategic planning decisions and programmes will or should be integrated within the process of implementing investments in projects of common interest.

- **Article 3 – “Priority status”**

General comment: the extension is already allowed by Art.1.2.: according to us this provision is not clear in terms of objectives and effectiveness , nor how this “testing” procedure will be applied.

- **Article 5 “Designated Authority”**

2. The Member State shall designate an authority at the appropriate administrative level to act as designated authority. Member States may, where relevant, designate different authorities as the designated authority depending on the project or category of projects, **transport mode, or per the geographical area** provided that there is only one designated authority per for a given project. Member States may empower the designated authority to issue the authorising decision.

Justification: while recognizing the importance of a single competent authority by project, it does not seem appropriate to identify it by the criterion of the mode of transport, due to the multimodal nature of many projects, nor on the geographical one, considering also the widespread effects of a transport project, not limited to a narrow limited area .

4. The designated authority shall:

(a) be the main point of contact for **information for** the project promoter in the procedure leading to the Authorising decision for a given project **and for coordination with the other authorities and stakeholders involved in the permitting procedure**;

(b) provide, **where appropriate if allowed by national legislation**, the Detailed Application Outline to the project promoter, including the indicative time-limits within the permit-granting procedures, in line with the time limit set out in accordance with Article 6;

(c) advise, **where applicable**, the project promoter in the submission of all relevant documents and information.

5. The designated authority ~~shall~~ **may, where applicable, we if so requested, advise the project promoter with regard to the verification** that all the necessary permits, decisions and opinions for the authorising decision have been obtained.

Justification: the role of authority seems to be confined to that of information point while the possibility of identifying a coordinating role in line with national legislations should be envisaged to avoid creating only an additional procedural constraint and in order to ensure a regular and fast procedure, reducing the uncertainties relating to the indicative times of the specific steps. In addition, the Italian national legislation implies that the promoter has the obligation to verify all the necessary permits, therefore in point (c) the wording should take into account different national frameworks. Moreover, it has to be considered the complexity and the articulation at national and local level of the competencies related to the protection of environmental, landscape, territorial and planning rules.

- **Article 6 “Duration of the permit-granting process”**

1. The Member States shall **provide for a permit-granting procedure and** set deadlines for the permit-granting procedure not exceeding 4 years from the start of the permit-granting procedure. The Member States may adopt the necessary measures in order to break down the available period in different steps and according to Union and national law, **in a coordinated framework with all the authorities involved in the permitting procedures.**

Justification: it is necessary to define the design level of the project identified as the starting point of the permit-granting procedure in order to fix the maximum time limit for the procedure (4 years). The Italian environmental approval process sets up a time limit not less than 5 years for the realization of the project (with the possibility to ask time extension).

Moreover regarding the different steps in charge of each MS, additional harmonized and coordinated procedures should be envisaged in order to identify fixed time limit for collecting the opinions of the involved authorities.

3. The Member States shall adopt the necessary measures to ensure that, in duly justified cases, **in particular where due to the administrative decision or judgment delivered by a court or tribunal the permit-granting procedure must be re-examined, or unforeseeable circumstances,** an appropriate extension to the four-year period referred to in this Article may be granted. ~~The designated authority shall determine, on a case-by-case basis, the duration of the prolongation~~ **shall be determined on a case-by-case basis and shall be duly justified its decision. This shall also apply to consecutive prolongations.**

*Justification: Due to the complexity of the procedures at national and local level, of the possible citizens involvement and also due to the content of recital (7) and taking into account the Cagliari G7 Declaration, Italy prefers to keep the possibility to extend the time limit also for unforeseeable circumstances. In addition, it is important to specify that the environmental national legislation foresees a **not less five years term of validity** of the expressed environmental compatibility within which the work must be carried out, with the possibility of extension upon motivated request of the project promoter.*

- **Article 6a “Organisation of the permit –granting procedure”**

1a. In order to assess the maturity of the project, Member States may define the level of detail of information and the relevant documents to be provided by the project promoter when notifying a project. ~~If the designated authority considers that the project is not mature enough, it shall reject the notification and justify its decision.~~ **If the project is not mature enough, the notification shall be rejected and the decision shall be justified.**

Justification: the wording does not ensure homogeneity in the judgments of the Member States, the "level of detail of information and related documents" required to "evaluate the maturity of the projects" could be different indeed.

3. Member States shall take the necessary measures to ensure that project promoters receive general information **as guidelines for notification**, where relevant according to the mode of transport, about the necessary permits, decisions and opinions that may be required for implementing a project. That information shall, with regard to the different permits, decisions and opinions include general information about the material scope and level of detail of information to be submitted by the project promoter, applicable time limits or, if there are no such time limits indicative time limits, as well as the authorities and stakeholders normally involved in consultations linked to the different permits,

decisions and opinions. That information shall be easily accessible to all relevant project promoters, in particular through information portals (electronic or physical).

Justification: we express a scrutiny reservation on this paragraph; as we indicate above the role of the authority appears to be confined to information/consultation tasks, while the possibility of identifying a coordinating role in line with national legislations should be envisaged to avoid creating only an additional procedural constraint and to ensure a regular and fast procedure, reducing the uncertainties relating to the indicative times of the specific steps. Furthermore the Italian national legislation implies that the promoter has the obligation to verify all the necessary permits: therefore in point (c), according to us the wording should take into account different national frameworks. Moreover, it has to be considered the complexity and the share at national and local level of the competencies related to the protection of environment, landscape, territory and to the planning rules.

4c. A list of necessary permits, decisions and opinions to be obtained by the project promoter during the permit granting procedure, in accordance with Union and national law;

Justification: according to us this paragraph is not in line with the provisions of the current environmental legislation which, for the single environmental authorization procedure (in the Italian legislation - art.27, Legislative Decree 152/2006 amended by Legislative decree 104/2017), requires that the project promoter must indicate the list of authorizations, understandings, opinions, concerts, design documents and any other documents required by the national legislation in the notification letter.



Council of the European Union
General Secretariat

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

Brussels, 14 October 2019

WK 9765/2019 ADD 6

LIMITE

**TRANS
CODEC**

WORKING PAPER

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Transport - Intermodal Questions and Networks
N° prev. doc.:	11273/1/19
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 Italy

Delegations will find attached written comments by Italy on the Presidency compromise proposal circulated in document ST 11273/1/19 REV 1.