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**TRANS 212  
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**PROPOSAL**

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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	17 May 2018
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2018) 277 final
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

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Delegations will find attached document COM(2018) 277 final.

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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}

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

#### • Reasons for and objectives of the proposal

Technological change is touching all parts of society and the economy and transforming the lives of EU citizens. Transport is no exception to this trend. New technologies are radically changing the mobility landscape. Against this background, the EU and its industries must meet the challenge to become a world leader in innovation, digitisation, and decarbonisation. The Commission has therefore adopted a comprehensive approach to ensure that the EU's mobility policies reflect these political priorities in the form of three 'Europe on the Move' mobility packages.

Following the Low-Emission Mobility Strategy, the Commission adopted two mobility packages in May and November 2017. These packages set out a positive agenda delivering on the low-emission mobility strategy and ensuring a smooth transition towards clean, competitive and connected mobility for all. The European Parliament and Council should ensure the rapid adoption of these proposals.

This initiative is part of the Third "Europe on the Move" Package, which delivers on the new industrial policy strategy of September 2017, and is designed to complete the process of enabling Europe to reap the full benefits of the modernisation of mobility. It is essential that tomorrow's mobility system is safe, clean and efficient for all EU citizens. The aim is to make European mobility safer and more accessible, European industry more competitive, European jobs more secure, and to be cleaner and better adapted to the imperative of tackling climate change. This will require the full commitment of the EU, Member States and stakeholders, not least in strengthening investments in transport infrastructure.

Stimulating economic growth and boosting investment in the real economy at the heart of the Commission's priorities. The Investment Plan for Europe<sup>1</sup>, which translates this overarching goal into operational terms, has three objectives: to mobilise finance for the real economy, to provide visibility and technical assistance to investment projects, and to improve the regulatory framework for investment.

Investment in transport infrastructure significantly contributes to achieving these objectives. In particular, the completion of the Trans-European Network for Transport (TEN-T) core network and its corridors is expected to generate an additional €4,500 billion or 1.8% of EU GDP and account for 13 million job-years until 2030<sup>2</sup>. It is estimated that the investment needed to complete the TEN-T core network amounts to about €500 billion between 2021 and 2030, and to about €1,500 billion with the TEN-T comprehensive network and other transport investment included<sup>3</sup>.

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<sup>1</sup> COM(2014) 903 final.

<sup>2</sup> Delivering TEN-T, Facts & Figures, [https://ec.europa.eu/transport/sites/transport/files/delivering\\_ten\\_t.pdf](https://ec.europa.eu/transport/sites/transport/files/delivering_ten_t.pdf), September 2017

<sup>3</sup> Based on feedback received from Member States in May 2017. The CNC work plans along with their supporting studies are available at: [https://ec.europa.eu/transport/themes/infrastructure/downloads\\_en](https://ec.europa.eu/transport/themes/infrastructure/downloads_en)

Experience shows that the implementation of the TEN-T core network projects is affected by complex administrative procedures and regulatory uncertainty, which can lead to increased costs and delays<sup>4</sup>.

The recently updated Christophersen-Bodewig-Secchi Action Plan<sup>5</sup> - *Making the best use of new financial schemes for European transport infrastructure projects* (2015) identified the simplification of administrative authorisations, permit granting rules and other regulatory procedures as one of the recommendations aiming to facilitate TEN-T completion. This action plan was presented by TEN-T European Coordinators Bodewig and Secchi as well as former Vice President H. Christophersen.

The effective completion of the TEN-T is essential for the functioning of the single market, the digitalisation of transport and the transition to low carbon mobility<sup>6</sup>. In its recent Communications, the Commission emphasised the need to mobilise private investments in sectors critical to the EU's future<sup>7</sup> and where market failures remain<sup>8</sup>. It also reiterated that cross-border and sustainable transport and TEN-T infrastructure are critical for the EU's move towards a low-carbon and resource-efficient economy<sup>9</sup>.

Creating a supportive regulatory environment and introducing efficient procedures is a challenge not only at European level. The G7 has also recognised the complexity of regulation affecting the efficiency of permit granting procedures, specifically in the Declaration of the Ministers adopted at the G7 Transport Ministers Meeting in Cagliari in June 2017. The Declaration stressed the importance of increasing public acceptance for infrastructure projects, of efficient administrative procedures and of streamlining the regulatory environment<sup>10</sup>. EU Member States have also made efforts to streamline procedures at national level<sup>11</sup>.

The present initiative aims at reducing delays encountered in the implementation of TEN-T infrastructure projects. It puts a maximum limit of three years for the entire permitting

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<sup>4</sup> This also applies to the previously identified 30 TEN-T priority projects. Several of them have been completed but some are still on-going, the experience with Priority Projects also shows that there issues related to permit granting procedures impacted the delivery of several projects (e.g. PP17, PP18/30, PP24), Implementation of the Priority Projects, November 2012; DG MOVE based on data from Member States, [https://ec.europa.eu/transport/sites/transport/files/themes/infrastructure/ten-t-policy/priority-projects/doc/pp\\_report\\_nov2012.pdf](https://ec.europa.eu/transport/sites/transport/files/themes/infrastructure/ten-t-policy/priority-projects/doc/pp_report_nov2012.pdf)

<sup>5</sup> Former Commission Vice-President H. Christophersen, Professor K. Bodewig, European Coordinator, Professor C. Secchi, European Coordinator in the "Action Plan – Making the best use of new financial schemes for European transport infrastructure projects" ("CBS Report"), June 2015, available at [http://ec.europa.eu/transport/themes/infrastructure/ten-t-guidelines/doc/2015\\_06\\_03\\_cbs\\_action\\_plan\\_final.pdf](http://ec.europa.eu/transport/themes/infrastructure/ten-t-guidelines/doc/2015_06_03_cbs_action_plan_final.pdf) Progress Report of the Action Plan Making the best use of new financial schemes for European transport infrastructure projects, January 2018, [https://ec.europa.eu/transport/sites/transport/files/cbs2\\_report\\_final.pdf](https://ec.europa.eu/transport/sites/transport/files/cbs2_report_final.pdf), (Henceforth: CBS Progress Report).

<sup>6</sup> In the conclusions adopted on 5 December 2017, the Council reiterated its strong commitment to the implementation of the TEN-T and the necessity to continue this policy to boost investment in transport and contribute to global objectives in particular in terms of climate action. 15425/17 TRANS 541. COM(2016) 359 final.

<sup>7</sup> COM(2016) 359 final.

<sup>8</sup> The Results and Efficiency of Railway Infrastructure Financing within the European Union, Study for the European Parliament, October 2015

<sup>9</sup> COM(2016)501 final.

<sup>10</sup> [http://www.g7italy.it/sites/default/files/documents/Final%20Declaration\\_0.pdf](http://www.g7italy.it/sites/default/files/documents/Final%20Declaration_0.pdf)

<sup>11</sup> German Strategy for speeding up the planning process: [https://www.bmvi.de/SharedDocs/DE/Publikationen/G/innovationsforum-planungsbeschleunigungsabschlussbericht.pdf?\\_\\_blob=publicationFile](https://www.bmvi.de/SharedDocs/DE/Publikationen/G/innovationsforum-planungsbeschleunigungsabschlussbericht.pdf?__blob=publicationFile)

process. It also aims to bring greater clarity to the processes which project promoters need to follow, in particular as regards permit granting, public procurement and other procedures.

The present initiative protects access to justice as regards the implementation of TEN-T infrastructure projects. It does not affect administrative appeal procedures and judicial remedies before a court or tribunal. Member States may nevertheless lay down specific procedural rules, such as the inadmissibility of an argument submitted abusively or in bad faith, which constitute appropriate mechanisms for ensuring the efficiency of the legal proceedings. Cross-border projects face specific difficulties in conducting public procurement, resulting in particular from the need to apply different legislations, as highlighted by the stakeholders. This adds complexity to the projects and creates costs. The aim of this initiative is to allow for the systematic application of one single framework in case of cross-border projects implemented by a joint entity, unless the participating Member States decide otherwise. This is in line with the objectives set out in the recent Communication on boosting growth and cohesion in EU border regions<sup>12</sup>.

Apart from generating more investment and attracting private capital to infrastructure of high EU added value, it is believed that this initiative will provide more clarity for citizens and civil society by strengthening the transparency framework for their involvement in the planning of TEN-T projects.

The specific expected benefits are estimated to be as follows:

- Time savings: permit granting procedures are expected to last up to a maximum of three years which is a significant improvement in comparison to the current situation.
- User cost savings: more than EUR 5 billion in user cost savings.
- Investment: 84% of total investment in the core TEN-T network will be brought forward to before 2025.
- Reduction of the external effects of transport: EUR 700 million saved in terms of CO<sub>2</sub> emissions, noise mitigation, air pollution, congestion and lower number of accidents. The reduction of CO<sub>2</sub> emissions is estimated at 2,686 thousand tonnes saved for the period 2018-2030.
- Administrative costs: net savings of EUR 150 million for project promoters and public authorities.
- **Consistency with existing policy provisions in the policy area**

There are currently no specific provisions related to permit granting and regulatory procedures in the area of the TEN-T. However, there are similar provisions are nevertheless applicable in the area of the Trans-European Network for Energy (TEN-E)<sup>13</sup>.

- **Consistency with other Union policies**

The objectives of this initiative are in line with the relevant Union policies in the field of transport, the single market and other areas. The initiative contributes to stimulating investment and creating jobs by streamlining investment in the real economy.

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<sup>12</sup> COM(2017) 534 final

<sup>13</sup> Regulation (EU) No 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC and amending Regulations (EC) No 713/2009, (EC) No 714/2009 and (EC) No 715/2009, (OJ L 115, 25.4.2013, p. 39).

Completing the TEN-T will lead to a deeper and fairer internal market being created, as the TEN-T aims to physically connect Member States and has a clear Union added value due to its focus on cross-border connections.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

### **• Legal basis**

The legal basis for this proposal is Article 172 of the Treaty on the Functioning of the European Union.

### **• Subsidiarity (for non-exclusive competence)**

The coordinated development of the TEN-T to support transport flows within the single European market and economic, social and territorial cohesion within the Union requires action to be taken at Union level. Permit granting procedures differ greatly across Member States in terms of the number of permits necessary and decisions to be obtained; this makes it difficult to synchronise of the development of the network. The TEN-T network cannot properly function as a whole, nor can it offer its benefits at Union level, until all of its elements are completed

### **• Proportionality**

The proposal complies with the proportionality principle. It falls within the scope for action in the field of the trans-European transport network, as defined in Article 170 of the Treaty on the Functioning of the European Union.

The action envisaged by this proposal is specifically limited to the European dimension of transport infrastructure.

A regulation would be an effective instrument as it would be directly applicable in the legal order of the Member States upon adoption and would not require a transposition period before taking the full legal effect. This is in line with the objective of removing discrepancies resulting from the transposition of directives and of advancing project preparation and authorisation procedures.

## **3. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS**

### **• Regulatory fitness and simplification**

The TEN-T policy was significantly strengthened in 2013 with the adoption of a new regulation defining a holistic strategy based on the establishment of the core network by 2030 and the comprehensive network by 2050. The TEN-T policy has nevertheless existed for 25 years and at the time of the preparation of the current TEN-T framework, evidence already existed on the existence and impacts of delays in permitting and other regulatory procedures. Simplification measures were initially planned for the TEN-T framework, but there were in the end considered premature due to several factors. Namely, the reshaped TEN-T framework included already an ambitious set of innovations, in particular in connection with the creation of a new funding instrument, the Connecting Europe Facility.

As a result, the current Regulation (EU) No 1315/2013 does not provide for specific solutions as regards permit granting procedures, unlike Regulation (EU) No 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy

infrastructure<sup>14</sup>. As a result, the present initiative could not be developed as part of the REFIT programme; however, it was inspired by the TEN-E experience.

- **Consultation, data collection and use of expertise**

The consultation activities included the following:

- (1) An open internet public consultation was carried out for 13 weeks from 1 August 2017 until 9 November 2017. A total of 99 responses were received, representing 23 different Member States equivalent to 94 % of all contributions. Regional, local or municipal authorities (20 %), project promoters (19 %) and industrial, business or sectorial associations (20 %) were the organisation categories with highest representation, closely followed by national governments (16 %).
- (2) A series of workshops were jointly organised by the Commission services responsible for the areas of the initiative, i.e. public procurement (15 June 2017), State aid and financing (21 September 2017), and environmental assessments and permit granting (17 October 2017).
- (3) Stakeholder interviews were carried out in the context of the impact assessment, between 6 December 2017 and 17 January 2018;
- (4) Consultation activities were carried out as part of the previous exploratory study along with an open public consultation which ran for 12 weeks as well as dedicated workshops;
- (5) A feedback mechanism was included in the inception impact assessment published on the Commission's website in June 2017.

The initiative was also discussed at ministerial level on two occasions, along with other issues related to the development and financing of the TEN-T: at the Regional Transport Investment Conference on 23 March 2017 in Sofia and at the Informal Transport Minister Council on 21 September 2017 in Tallinn.

### **Summary of input received and use of results**

All relevant stakeholder groups representing all Member States were consulted and most provided their views, together with some quantitative information, where available, relating to existing issues and the policy measures under consideration. The consultation showed that the main issues identified with the permit granting procedures of TEN-T projects, relate to steps at the strategic level of a project's preparation, including the attainment of spatial planning permits, planning permissions and environmental assessments.

Support for the integration of procedures under a single national entity, a one-stop-shop was expressed in particular, by project promoters, individuals and industrial interest groups. National and regional governments expressed more reserved opinions expressed more reserved opinions, which were also confirmed in bilateral interviews

A significant number of national and regional governments expressed some concerns about a one-stop-shop. However, the individual qualitative analysis of their comments shows that this

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<sup>14</sup> Regulation (EU) No 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC and amending Regulations (EC) No 713/2009, (EC) No 714/2009 and (EC) No 715/2009 ( OJ L 115, 25.4.2013, p. 39–75)

apparent disagreement stems, in some cases, from the fact that some countries have already integrated procedures within a single entity (including fast track procedures). These single national entities already in existence can be seen as a best practice example of one-stop-shop implementation.

According to project promoters and individuals, each one-stop-shop should have extended decision-making capacity that would manage all environmental assessments at project level, spatial planning permissions and construction permits. On the other hand, the opinions of national and regional governments varied as to the extent of the integration of procedures and level of authority. A significant number of national representatives stated that one-stop-shops should have only coordinating powers.

Respondents primarily project promoters, individuals and industrial interest groups agreed that the permit granting process should not last longer than two years, and that the establishment of such a time limit could help reduce excessive delays. Local and regional authorities as well as some national governments were more reserved on this issue.

A common set of Union-level rules that apply to cross-border projects was identified, as the most effective solution to improving public procurement issues, in particular by project promoters and industrial groups, National authorities stated that such a set of rules would be more effective when applied to cross-border projects benefiting from Union funding.

From among the available instruments for adopting measures to facilitate the preparation of TEN-T projects and granting of permits, the consultation showed that respondents had a general preference from respondents for a regulation on permit granting procedures and other elements of preparing TEN-T projects, which would be directly applicable in Member States.

- **Data collection and use of expertise**

The initiative follows a long reflection process and responds to the political invitation to act. The problem definition was based mainly on the Commission's experience with managing the TEN-T completion<sup>15</sup>, consultation activities and the external studies:

- Study on permitting and facilitating the preparation of TEN-T core network projects, Milieu et al., December 2016<sup>16</sup>;
- Support study for an Impact Assessment on measures for the streamlining of TEN-T, Panteia, PwC, M-FIVE, February 2018<sup>17</sup>.

- **Impact assessment**

The initiative is supported by an impact assessment. It has received a positive opinion with reservations from the Regulatory Scrutiny Board. The Board has made recommendations requiring adjustments and clarifications on the following:

- Providing more evidence on how public procurement and permit granting procedures affect delays in construction. Adding more information about the varying situation across sectors and Member States as well as description of the lessons learnt from TEN-E, European Fund for Strategic Investments, and action taken in Member States to streamline processes.

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<sup>15</sup> Progress report on implementation of the TEN-T network in 2014-2015, February 2017

<sup>16</sup> [https://ec.europa.eu/transport/sites/transport/files/permitting\\_ten-t\\_final\\_report.pdf](https://ec.europa.eu/transport/sites/transport/files/permitting_ten-t_final_report.pdf)

<sup>17</sup> Link once published.



- Providing more information on stakeholder views of the options, especially those of Member States and citizens.
- A sensitivity analysis to be added along with an explanation of the assumptions made in relation to the calculation of results, in particular regarding the degree to which the measures could realistically help avoid delays.

These comments have been taken into account in the revised impact assessment, as indicated in Annex I of the Impact Assessment Report. The following modifications were made to address the issues mentioned above:

- Examples were presented more prominently to illustrate the impacts of delays in permit granting processes and procurement on individual projects and how this affects the completion of the TEN-T, as well as other the network effects. More references were made to the results of the completing the TEN-E and priority treatment for State aid control<sup>18</sup>. Specific paragraphs were added to describe the experience of Member States, including the actions they took to streamline their processes. All these elements strengthened the granularity of the analysis.
- The results of the open public consultations and other stakeholders' consultation were presented in much greater detail. A specific section on the comparison of policy options was added in the Chapter 7.
- A sensitivity analysis was carried out and presented across the impact assessment in relevant sections.

The assessed policy options consist of packages of policy measures that address the specific objectives, and more specifically the main problem drivers identified:

- multiple stages and authorities involved in permit granting procedures;
- absent or unenforced time limits;
- differing public procurement procedures for cross-border TEN-T projects;
- coordination challenges for the delivery of cross-border projects; and
- perceived uncertainties related to State aid control procedures.

The analysis led to a clear conclusion that it is not necessary to have the same level of ambition in every area, and that a stepwise approach would be appropriate.

For permit granting procedures, the situation differs across Member States and no harmonised approach has yet been taken at Union level. A higher level of intervention is necessary to synchronise procedures across borders and allow for a more coordinated, effective and efficient project implementation of projects.

For public procurement, a modernised framework has started to apply over the past few years<sup>19</sup>. However, a gap remains in the area of cross-border procurement and projects

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<sup>18</sup> Projects supported by the European Fund for Strategic Investments according to the Regulation (EU) 2017/2396 of the European Parliament and of the Council of 13 December 2017 amending Regulations (EU) No 1316/2013 and (EU) 2015/1017 as regards the extension of the duration of the European Fund for Strategic Investments as well as the introduction of technical enhancements for that Fund and the European Investment Advisory Hub, OJ L 345, 27.12.2017, p. 34–52

<sup>19</sup> In particular, Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243) and Directive 2014/24/EU of the

developed commonly by two or more Member States. In this area, the intervention only targets this specific gap.

For State aid control, newly adopted clarifications have in any event already removed most of the uncertainty which allegedly may have hampered the development of projects in the past. In the case of a complex project with sophisticated financial structures, it seems nevertheless necessary to increase the quality of notifications also through better cooperation between the Commission services, Member State authorities and the legal and business community. Along the lines of the Code of Best Practice for the conduct of State aid control procedures, priority treatment can be given to projects of common interest on the core network of the TEN-T following a mutually agreed timetable between the Member States and the Commission, setting out clearly the milestones and information to be delivered by the Member States. This will allow the procedures at the Commission to run smoothly to allow the swifter adoption of the decision.

The policy options were based on increasing levels of intervention, ambition and ‘cumulative’ expected impact:

- Policy option 1 (PO1) Minimal change to the existing instruments and development of soft law as well as accompanying measures.
- Policy option 2 (PO2) Limited binding action to be decentralised and implemented at national level.
- Policy option 3 (PO3) An EU framework for authorisation of the TEN-T core network projects to be applied at national level (PO3a) or at EU level (PO3b).

The impact assessment recommended policy option 2 and the initiative follows this recommendation.

#### **4. BUDGETARY IMPLICATIONS**

The proposal will not entail any additional cost for the Union budget.

#### **5. OTHER ELEMENTS**

##### **• Implementation plans and monitoring, evaluation and reporting arrangements**

The Impact Assessment Report lists a set of indicators that should be used to monitor the effectiveness and efficiency of the measures taken in order to meet the main policy objectives:

- Minimising the risk of delays faced by individual TEN-T projects:
  - The advancement of the TEN-T implementation in terms of compliance with the standards and requirements.
  - Progress in investment supported by EU in the TEN-T transport infrastructure measured by the number of CEF projects (or the projects supported by its successor) implemented on time and/or not delayed due to permitting/procurement issues.
- Increasing legal certainty for project promoters thus attracting more private investors to transport infrastructure

- The increase of number of the TEN-T infrastructure projects financed with the use of the EU-supported financial instruments (e.g. EFSI and its successors).

Monitoring will build on existing measures to monitor the implementation of the TEN-T as such. It will therefore use to the largest possible extent the existing framework and in a simple and transparent way to make it easily accessible for interested stakeholders. It is not the intention to create a complex system of new performance indicators.

- Detailed explanation of the specific provisions of the proposal

The title of the Regulation addresses the scope and objectives of the act, which aims to facilitate the completion of the trans-European transport network.

#### Article 1 - Subject matter and scope

This article introduces the subject matter and the objectives of the Regulation which are the effective and timely completion of the TEN-T across the Union, by reducing the risk of delays and increasing the level of certainty for project promoters and investors as regards the length of the applicable procedures. Another objective is to facilitate the involvement of private investors and provide more clarity on public consultations.

#### Article 3 – ‘Priority status’ of projects of common interest

Certain Member States in their respective national legal frameworks grant fast-track procedures and special streamlined treatment to categories of projects based on their importance to the development of the country or other reasons. In order to meet the objectives of completing the TEN-T, to which the Member States committed themselves by adopting in the Council the regulation defining this network and binding deadlines for its completion, similar preferential treatment should apply to Union projects of common interest.

#### Articles 4-6 – Integration of the permit granting procedures

The objective of this article is to integrate the various permit granting processes for TEN-T projects of common interest. Article 4 requires that the authorisation of TEN-T projects is handled by one single authority that manages and takes ownership of the overall process and acts as the single entry point for project promoters and other investors. Article 5 establishes the designation and role of such an authority. Article 6 defines the procedural steps leading to a comprehensive decision authorising the investor to go ahead with the project.

#### Article 7 – Coordination of cross-border permit granting procedures

This article states the importance of coordinating permit granting procedures across borders and strengthens the role of the European Coordinators in monitoring the permit granting procedure.

#### Article 8 – Public procurement in cross-border projects of common interest

This article provides for the application of only one legal framework on public procurement for cross-border projects. Unless otherwise specified in an intergovernmental agreement, joint entities developing such projects will apply a single national legislation to procure works and services when implementing the project.

#### Article 9 – Technical assistance

The existing technical assistance schemes based on Union legislation will be open to the projects of common interest concerned by this initiative, subject to the availability of resources managed by the respective services.

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**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,  
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 172 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>20</sup>,

Having regard to the opinion of the Committee of the Regions<sup>21</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Regulation (EU) No 1315/2013 of the European Parliament and of the Council<sup>22</sup> sets out a common framework for the creation of state-of-the-art, interoperable networks for the development of the internal market. The trans-European transport networks (TEN-T) have a dual layer structure: the comprehensive network ensures connectivity of all regions of the Union whereas the core network consists of those elements of the network which are of the highest strategic importance for the Union. Regulation (EU) No 1315/2013 defines binding completion targets for implementation, with the core network to be completed by 2030 and the comprehensive network by 2050.
- (2) Notwithstanding the necessity and binding timelines, experience has shown that many investments aiming to complete the TEN-T are confronted with complex permit granting procedures, cross-border procurement procedures and other procedures. This situation jeopardises the on time implementation of projects and in many cases results in significant delays and increased costs. In order to address these issues and make synchronised TEN-T completion possible, harmonised action is necessary at Union level.
- (3) In the legal frameworks of many Member States priority treatment is given to certain project categories based on their strategic importance for the economy. Priority treatment is characterised by shorter timelines, simultaneous procedures or limited timeframes for appeals while ensuring that the objectives of other horizontal policies are also reached. When such a framework exists within a national legal framework, it

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<sup>20</sup> OJ C , , p. .

<sup>21</sup> OJ C , , p. .

<sup>22</sup> Regulation (EU) No 1315/2013 of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network and repealing Decision No 661/2010/EU (OJ L 348, 20.12.2013, p. 1).

should automatically apply to Union projects recognised as projects of common interest under Regulation (EU) No 1315/2013.

- (4) In order to improve the effectiveness of the environmental assessments and streamline the decision-making process, where the obligation to carry out assessments related to environmental issues of core network projects arises simultaneously from Directive 2011/92/EU, as amended by Directive 2014/52/EU, and from other Union legislation such as Directive 92/43/EEC, Directive 2009/147/EC, Directive 2000/60/EC, Directive 2008/98/EC, Directive 2010/75/EU, Directive 2012/18/EU and Directive 2011/42/EC, Member States should ensure that a joint procedure fulfilling the requirements of these Directives is provided.
- (5) Core network projects should be supported by integrated permit granting procedures to make clear management of the overall procedure possible and to provide a single entry point for investors. Member States should designate a competent authority in accordance with their national legal frameworks and administrative set-ups.
- (6) The establishment of a single competent authority at national level integrating all permit granting procedures (one-stop shop) should reduce the complexity, improve the efficiency and increase the transparency of the procedures. It should also enhance the cooperation between Member States where appropriate. The procedures should promote a real cooperation between investors and the single competent authority and should therefore allow for the scoping in the pre-application phase of the permit granting procedure. Such scoping should be integrated in the detailed application outline and follow the procedure set out in Article 5(2) of 2011/92/EU, as amended by Directive 2014/52/EU.
- (7) The procedure set out by this Regulation should be without prejudice to the fulfilment of the requirements defined in the international and Union law, including provisions to protect the environment and human health.
- (8) Given the urgency to complete the TEN-T core network, the simplification of permit granting procedures should be accompanied by a time limit within which competent authorities responsible should make a comprehensive decision regarding the construction of the project. This time limit should stimulate a more efficient handling of procedures and should, under no circumstances, compromise the Union's high standards for environmental protection and public participation.
- (9) Member States should endeavour to ensure that appeals challenging the substantive or procedural legality of a comprehensive decision are handled in the most efficient way possible.
- (10) Cross-border TEN-T infrastructure projects face particular challenges as regards the coordination of permit granting procedures. The European Coordinators should be empowered to monitor these procedures and facilitate their synchronisation and completion.
- (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.

- (12) The Commission is not systematically involved in the authorisation of individual projects. However, in some cases, certain aspects of the project preparation are subject to clearance at Union level. Where the Commission is involved in the procedures, it will give priority treatment to the Union projects of common interest and ensure certainty for project promoters. In some cases State aid approval might be required. In line with the Best Practice Code for the conduct of State aid control procedures, Member States may ask the Commission to deal with projects of common interest on the core network of the TEN-T they consider to be of priority with more predictable timelines under the case portfolio approach or the mutually agreed planning.
- (13) The implementation of infrastructure projects on the TEN-T core network should be also supported by Commission guidelines that bring more clarity as regards the implementation of certain types of projects while respecting the Union acquis. For example the Action Plan for nature, people and the economy<sup>23</sup> foresees such guidance to bring more clarity in view of respecting the Birds and Habitats Directives. Direct support related to public procurement should be made available for projects of common interests to ensure the best value for public money<sup>24</sup>. Additionally, appropriate technical assistance should be made available under the mechanisms developed for the Multi-Annual Financial Framework 2021-2027, with the aim of providing financial support for TEN-T projects of common interest.
- (14) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States and can therefore, by reason of the need for coordination of those objectives, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (15) For reasons of legal certainty, the administrative procedures which started prior to the entry into force of this Regulation should not be subject to the provisions of this Regulation.

HAVE ADOPTED THIS REGULATION:

## **CHAPTER I GENERAL PROVISIONS**

### *Article 1*

#### ***Subject matter and scope***

This Regulation sets out requirements applicable to the administrative procedures followed by the competent authorities of Member States in relation to the authorisation and implementation of all projects of common interest on the core network of the trans-European transport network..

### *Article 2*

#### ***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:

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<sup>23</sup> COM(2017) 198 final.

<sup>24</sup> COM(2017) 573 final

- (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;
- (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 3*

#### ***‘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 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 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 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 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.

#### *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 which shall be responsible for facilitating the permit granting process including for making the 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:
  - (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 comprehensive decision within the time limits specified in Article 6. It shall do so following joint procedures.

The comprehensive decision issued by the single competent authority shall be the sole legally binding decision resulting from the statutory permit granting procedure. Where other authorities are concerned by the project, they 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 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 6

### *Duration and implementation of the 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 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 the 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 comprehensive decision
  - (b) a schedule for the permit granting process, identifying at least the following:
    - (i) the 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 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. 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.

#### *Article 7*

##### ***Coordination of cross-border permit granting procedure***

1. For projects that involve two or more Member States, the competent authorities of the Member States concerned shall align their timetables and agree on a joint schedule.
2. The European Coordinator referred to in Article 45 of Regulation (EU)<sup>2</sup> No 1315/2013 shall be empowered to closely follow the permit granting procedure for cross-border projects of common interest and to facilitate contacts between the involved competent authorities.
3. Without prejudice to the obligation to comply with the time limits under this Regulation, if the time-limit for the comprehensive decision is not observed, the competent authority shall immediately inform the European Coordinator concerned about the measures taken or to be taken to conclude the permit granting procedure with the least possible delay. The European Coordinator may request the competent authority to regularly report on progress achieved.

### **CHAPTER III PUBLIC PROCUREMENT**

#### *Article 8*

##### ***Public Procurement in cross-border projects of common interest***

1. Public procurement in cross-border projects of common interest shall be conducted in accordance with the Treaty and Directives 2014/25/EU and/or 2014/24/EU.
2. In case the procurement procedures are conducted by a joint entity set up by the participating Member States, that entity shall apply the national provisions of one of

those Member States and, by way of derogation from these Directives, those provisions shall be the provisions determined in accordance with point (a) of Article 57(5) of Directive 2014/25/EU of the European Parliament and of the Council or point (a) of Article 39(5) of Directive 2014/24/EU of the European Parliament and of the Council, as applicable, unless an agreement between the participating Member States provides otherwise. Such an agreement shall in any case provide for the application of a single national legislation in case of the procurement procedures conducted by a joint entity.

## **CHAPTER IV TECHNICAL ASSISTANCE**

### *Article 9*

#### ***Technical assistance***

On the request of a project promoter or Member State, in accordance with the relevant Union funding programmes and without prejudice to the Multi-Annual Financial Framework, the Union shall make available technical assistance for the implementation of this Regulation and the facilitation of the implementation of projects of common interest.

## **CHAPTER V FINAL PROVISIONS**

### *Article 10*

#### ***Transitional provisions***

This Regulation shall not apply to the administrative procedures which started before the date of its entry into force.

### *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.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*