

Measures to advance the realisation of the trans-European transport network

Integrated and faster project procedures

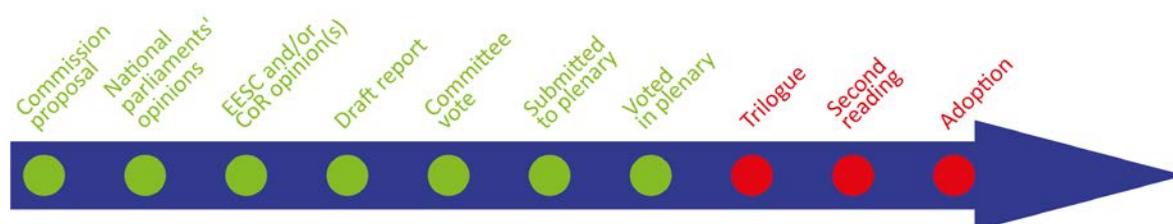
OVERVIEW

With the trans-European transport network (TEN-T) policy, the European Commission seeks to develop a modern, efficient and climate-friendly network covering all transport modes.

Despite the TEN-T's importance for the economy and society, and despite the binding timelines and targeted financial support, it risks not being completed as planned. This is partly due to complex administrative procedures linked to permit-granting for cross-border projects as well as broader regulatory uncertainty, often resulting in delays and increased cost. To speed up the network's completion, the Commission has proposed measures to integrate and shorten permit-granting for projects, and facilitate public consultations and the involvement of private investors.

On 3 December 2018, the Transport Council stated that much remains to be resolved before an agreement on the proposal becomes possible. The European Parliament's Committee on Transport and Tourism adopted its report on 10 January. The Parliament adopted its first-reading position in plenary on 13 February 2019. Trilogue negotiations with a view to an early second-reading agreement could thus take place in the new term once Council has agreed its position.

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		
<i>Committee responsible:</i>	Transport and Tourism (TRAN)	COM(2018)0277
<i>Rapporteur:</i>	Dominique Riquet (ALDE, France)	17.5.2018
<i>Shadow rapporteurs:</i>	Wim van de Camp (EPP, Netherlands) Inés Ayala Sender (S&D, Spain) Kosma Złotowski (ECR, Poland) Merja Kyllönen (GUE/NGL, Finland) Michael Cramer (Greens/EFA, Germany)	2018/0138(COD) Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')
<i>Next steps expected:</i>	Opening of trilogue negotiations.	



Introduction

Under the TEN-T policy, the European Commission seeks to develop an EU-wide network of roads, railway lines, inland waterways, ports, airports, shipping routes and rail-road terminals. Among the biggest challenges identified during the TEN-T's implementation are complex administrative procedures linked to cross-border permit-granting and regulatory uncertainty. This is partly due to unclear or contradictory requirements and processes at different levels of administration.

With the current proposal, the Commission wants to address these issues and speed up the completion of the TEN-T. Delays would be reduced by integrating the permitting process within a single entity, bringing it within an overall time limit of three years, and clarifying the various procedures to be followed.

This action goes hand in hand with the Commission's efforts to broaden the available funding and financing, ensure a pipeline of quality projects and create an investment-friendly environment.

In line with the European Union's aspiration to become a world leader in innovation, digitalisation and decarbonisation, the Commission has adopted three legislative mobility packages, putting forward concrete measures to modernise transport. The present proposal is part of the third – [Europe on the Move](#) – mobility package and aspires to help implement the Commission's [industrial policy strategy](#).

Context

Efforts to support the European internal market by developing **trans-European networks** (TENs) date back to the 1990s. The TEN policy was consolidated in 2013 with a new framework that strengthened governance at the EU level with new sectoral guidelines for networks in the area of [transport](#), [energy](#) and [telecommunications](#), and set up a dedicated programme – the Connecting Europe Facility (CEF) – to part-finance network deployment. In the area of transport ([TEN-T](#)), the aim is to create new or upgrade existing transport infrastructure, close gaps, remove bottlenecks and eliminate technical barriers to transport flows between Member States. The energy network ([TEN-E](#)) seeks to link the EU countries' energy infrastructure, while in the telecommunications sector the aim is to complete the [digital single market](#) and connect EU households to the internet.

The **transport network** consists of two planning layers. The core network of the most important connections should be completed by 2030, and the comprehensive network of routes feeding into the core network, by 2050. The planned core network comprises nine multimodal corridors and two horizontal priorities, each with its own [European coordinator](#) who is in charge of the detailed [corridor planning](#) agreed by the relevant stakeholders, and of implementation.

Experience gathered from the projects on the core network corridors shows that their implementation is slowed down by various **procedural delays and lack of financing**. However, the timely completion of the TEN-T is key not only to the functioning of the EU single market but also to the digitalisation of transport and the transition to low carbon mobility within the Union. The completion of the core network alone is expected to generate €4 500 billion (1.8 % of EU GDP) and 13 million job-years¹ until 2030.

The Commission estimates that completing the core network would require an investment of about €500 billion between 2021 and 2030, while the comprehensive network would require an investment of about €1 billion by 2050. Most of this investment was expected to come from private sector and from public support at the national level, while EU-level support was to target in particular the areas where the market alone fails: cross-border connections and lines that otherwise would not be built.²

EU funding for TEN-T is provided through several [channels](#). Support from the Connecting Europe Facility (CEF), with a transport budget of [€24.05 billion](#),³ is mostly distributed as grants, with only a limited number of financial instruments (loans). Beyond the CEF, about €70 billion in EU co-funding

has been made available under the Cohesion Fund ([CF](#)) and the European Regional Development Fund ([ERDF](#)). In the [Horizon 2020](#) programme, €6.3 billion has been earmarked for transport research and innovation. The European Fund for Strategic Investment ([EFSI](#)) – an additional financial instrument in operation since 2015 – complements the 'traditional' European Investment Bank ([EIB](#)) lending and provides support that can be combined with grants from other EU sources ('blending').

To encourage the use of **financial instruments** in the implementation of the TEN-T, former Commission Vice President, Henning Christophersen, and European coordinators Kurt Bodewig and Carlo Secchi prepared an [action plan](#) ('the CBS report', 2015), identifying projects along the corridors suited for the new financial schemes. They recommended that Member States simplify their permitting as well as procurement procedures, and that in cross-border projects, a single legal framework be used instead of multiple national systems.

In 2018, reviewing the [progress](#) made, the authors spelled out several further actions needed in the areas already identified, such as to establish a single permitting authority for TEN-T projects, including all environmental assessments; to set time limits for the overall permitting procedure and its phases; and to introduce a mandatory joint procedure for all environmental assessment obligations stemming from EU legislation, without undermining the individual quality standards.

Existing situation

The 2013 [TEN-T guidelines](#) set the objectives, priorities and broad lines of measures envisaged. They identify projects of common interest and priority projects that should help develop the network throughout the EU and involve the private sector. The guidelines do not contain any provisions on permit-granting and regulatory procedures; such provisions exist partially in the TEN-E guidelines.

Complex administrative procedures and regulatory uncertainty open the door to delays and increased costs. Uncertainty for project promoters – as to when the final permit will be granted – does not create an environment that is attractive to investors.

[Problems](#) occur at all stages of TEN-T projects, from early planning to procurement. While some of the areas concerned (environment and public procurement) fall under EU rules as transposed into national legislation, others, such as land use and spatial planning, are within the competence of Member States only. Launching an infrastructure project requires obtaining multiple permits and having multiple assessments done; the fact that these are handled by entities belonging to the national, regional or local level of administration prolongs the overall authorisation procedure. Moreover, lack of public acceptance often makes the process even more time-consuming. Some Member States, such as Germany, have taken steps to streamline procedures at the [national level](#).⁴

Parliament's starting position

The Parliament has been a strong supporter of timely TEN-T implementation. In [2015](#), it asked for EU-funded infrastructure projects that are part of TEN-T to be approved as a priority. It also advocated a stronger role for the Commission in implementing the TEN-T corridors.

A year [later](#), seeking ways to improve cross-border transport connections in central and eastern Europe, the Parliament urged both the Commission and the Member States to streamline and simplify the procurement rules. Its further recommendations were to issue guidelines for public-private partnerships, ensure an adequate State aid framework and simplify the permit procedures.

In a subsequent resolution of [2017](#), the Parliament pointed out that cross-border projects are slowed down not only by the absence of harmonisation and on-time implementation on the part of the Member States but also by the lack of fair political cooperation between neighbouring states.

Recognising the complexity of submitting a transport project for CEF financing, in [2018](#) the Parliament published a resolution calling on the Commission to continue providing technical

assistance to projects, but to adapt it to the needs of smaller project applicants. As before, the Parliament demanded further simplification of the administrative requirements for projects.

Council starting position

In the December 2014 Council [conclusions](#), EU transport ministers acknowledged that permit-granting procedures are an essential part of project planning. To them, early consultation and coordination of parties involved was key to streamlining these procedures, accelerating projects, avoiding additional costs and increasing investors' confidence. They asked the Commission to check for existing good practices and find ways to simplify procedures for projects on the core network.

In the 2016 Rotterdam [declaration](#) on implementing the TEN-T, EU transport ministers recognised that the Investment plan for Europe ('[the Juncker plan](#)') provides an opportunity to streamline EU procedural requirements linked to public procurement and State aid rules. To facilitate project implementation, they called on the Commission to develop and introduce better-coordinated procedures in these areas as well as to assess various ways to simplify procedures for projects of common interest on the core network.

In its December 2017 [conclusions](#) on the state of play of TEN-T and the investments made on the basis of CEF money, the Council took note of the identified barriers in the regulatory and administrative processes (see the 2016 external study below) and asked the Commission to consider possible further measures.

Preparation of the proposal

A 2016 [external study](#) analysed the permitting and facilitating of the preparation of TEN-T core network projects. Supported by a public consultation, it identified the barriers in the regulatory and administrative processes that are slowing down project implementation. Having analysed different types of delays (caused by: the way the permitting procedure, environmental assessments, public procurement and state aid are organised; and the lack of public acceptance), the study recommended introducing an EU-level permitting procedure and a single leading authority at national level (a 'one-stop shop') for project promoters. This authority would issue the legally binding development consent decision within 3.5-4 years. The study also pointed to the experience in implementing trans-European energy networks, partly transferable to transport (as regards the coordination of multiple authorities, streamlining of environmental assessment procedures and public consultation procedure).

In 2017, in assessing the [progress](#) of TEN-T implementation by the end of 2015, the Commission recognised that despite significant EU support, the main financing challenge lies with the Member States. To overcome the existing funding deficit, further sustainable and sufficient sources of financing, both public and private, had to be developed.

In a 2017 overview of the state of play of [delivering TEN-T](#), Member States suggested to the Commission several possible ways to improve the regulatory framework.⁵ In its June 2017 [inception impact assessment](#) for the present proposal, the Commission stated that it wanted to reduce costs and delays by simplifying permitting, procurement and other procedures necessary for the

Views of the European Court of Auditors (ECA)

In a 2018 [report](#) on the EU high-speed rail network, which is part of the TEN-T, the ECA recommended to the Commission to 1. review the rules on procurement; 2. introduce the option of a single legal framework for key cross-border infrastructure projects (to solve issues such as the language of documents, contracts, accounting systems and dispute settling); and 3. create a 'one-stop-shop' dealing with formalities on both sides of the border. The Commission should, aided by with the Member States, also work out stronger enforcement tools to speed up the completion of the legal TEN-T obligations.

In an overall [transport review](#), the ECA urged to simplify the rules for implementing infrastructure projects, as national-level structural problems related to the issuing of permits and authorisations could cause delays and increase costs. It also pointed out that in cross-border procurement, whenever delays on one side of a border hamper the timely use of infrastructure built on the other side, the Commission has no instruments to take any appropriate action and European coordinators can only monitor the situation in their corridor, without having any legal power to intervene.

implementation of TEN-T projects as well as address the specific needs of new financing schemes. From 1 August 2017 to 9 November 2017, it ran an open [public consultation](#), receiving 99 responses (mainly from public authorities) from 23 countries. It also held thematic workshops and interviews.

The public consultation identified the steps involved in obtaining spatial planning permits, planning permissions and environmental assessments as presenting the main problems in the permitting procedure. According to project promoters, the key obstacles are the way public procurement for works is organised and the steps involved in obtaining final development consent/construction permits/environmental assessments at project level. The biggest obstacle in the procurement of cross-border projects was perceived to be the existence of different national legislations and how to agree on the applicable one. Many respondents also reported difficulties in the area of State aid and public consultation processes, linked to the lack of general understanding of the socio-economic benefits of transport projects and the insufficient involvement of the local population. Member States saw little value in introducing additional EU-level rules.

The proposal is accompanied by an [impact assessment](#) (IA), for the making of which the Commission contracted a [support study](#). The IA considered a number of policy options based on different levels of intervention, ambition and the expected resulting impact. The preferred option consists of a limited binding action, decentralised and implemented at national level. EPRS [analysis](#) of the impact assessment finds that the problem examination is comprehensive. Nevertheless, the IA could have been more concrete as regards the State aid rules and the impact on small and medium-sized enterprises, and it could have given more information about the respondents in the consultations.

In parallel to this legislative initiative, the Commission is reviewing the outcomes of an earlier TEN-T phase. On 15 November 2018, it launched another [public consultation](#) evaluating the TEN-T programme for 2007-2013, which closes on 14 February 2019.

The changes the proposal would bring

Based on Article 172 of the [Treaty on the Functioning of the European Union](#), the proposal pursues two objectives: first, to facilitate the timely completion of the TEN-T core network by reducing delays and increasing the certainty for project investors and promoters; and second, to involve private investors and facilitate public consultations.

As regards the **granting of permits**, projects of common interest on the TEN-T core network would get preferential treatment. Where national law allows for fast-track procedures, these projects would get the highest priority.

All relevant administrative procedures stemming from national and Union law would be integrated and managed by **a single competent authority** designated by each Member State. The authority would act as a one-stop shop for project promoters and investors. It would deliver **one comprehensive decision** authorising an investor to go ahead with their project, in a two-stage process with a maximum length of **three years**. The text specifies details regarding the designation and role of such an authority and the procedural steps leading to the comprehensive decision.

To better coordinate permit-granting procedures across borders, the role of the existing European coordinators would be strengthened. Public procurement in cross-border projects of common interest would follow only **one legal framework**, unless the governments involved agree otherwise. The regulation would not apply to administrative processes already started before it enters in force, nor affect administrative appeal procedures and judicial remedies before a court or tribunal.

The Commission expects that these measures will shorten permit-granting procedures, save €5 billion in user costs, mobilise 84 % of total investment in the TEN-T core network by 2025, help reduce external effects of transport worth about €700 million (by avoiding CO₂ emissions, air pollution, noise, congestion and accidents), and relieve project promoters and public authorities of €150 million in administrative costs.

The proposed act would mostly affect different-level public authorities that are responsible for project implementation or enforcement of investment regulations. Project promoters, once they have adapted to the new procedures, should see their administrative costs reduced by about 13 %. Local communities should be better involved through public consultations in early project stages.

Advisory committees

The European Economic and Social Committee ([EESC](#)) issued an [opinion](#) on 17 October 2018 (rapporteur: Dumitru Fornea, Group I – Employers, Romania), endorsing the proposal. However, for the proposed deadlines to be realistic, the EESC reminds that the views of the competent national authorities need to be taken into account. It furthermore points out that in some Member States, meeting the deadlines will require legal and administrative reforms. The EESC proposes to standardise the terms and conditions for public procurement at EU level, involve stakeholders from the early planning stage and organise efficient and timely consultations with the public, civil society organisations and relevant local authorities, to ensure a positive political and social climate.

In its [opinion](#) of 6 February 2019 (rapporteur: Michiel Scheffer, ALDE, the Netherlands), the European Committee of the Regions ([CoR](#)) welcomes the proposal, stressing the importance of streamlined procedures for cross-border regions. It suggests not to apply the proposed procedure to all TEN-T projects, but rather to let Member States decide which ones fall under it. To the CoR, a tailor-made approach should be possible where Member States already have streamlined procedures in place.

National parliaments

The Czech Senate, the German Bundestag, the Irish Parliament and the Swedish Parliament submitted reasoned opinions within the [subsidiarity deadline](#) (3 September 2018). The **four parliaments** share the view that the proposal **infringes the principle of subsidiarity**; the Bundestag also finds it incompatible with the principle of **proportionality**, suggesting that a directive would be sufficient. The parliaments doubt whether the measures proposed can achieve the declared objectives, as the requirements relating to the priority status of projects, the structure of the permit-granting authority and the procedural provisions would entail such regulatory detail that is likely to delay progress instead of advancing it. The Czech Senate suggests improving the situation through an exchange of good practices between Member States and through targeted legislative changes at the national level. It furthermore suggests reducing the administrative burden resulting from the application of EU legislation to the permit-granting procedures. Last but not least, the Irish Parliament points out that the proposal does not address cross-border TEN-T infrastructure projects with third countries, including the United Kingdom after Brexit.

Stakeholders' views⁶

Few stakeholders reacted to the proposal itself, but some published either their contributions to the public consultation or views on issues to be tackled for achieving a better implementation of TEN-T projects. The European Construction Industry Federation ([FIEC](#), position paper 2017-11-09) reminded that socio-economic impacts should also be taken into account at an early stage of the process and that public-private partnerships or concessions should be used only when and where it makes sense.

In 2016, the [European sea and inland ports](#) asked the Commission to better coordinate the action of its different directorates general and set up a one-stop shop able to check whether a project's setup is compatible with EU State aid rules and deliver decisions in time. They also suggested to make public procurement rules more flexible to allow ports to adapt project details during the execution phase, arguing that the current rigid rules put the contractor in a dominant position vis-à-vis port authorities, thereby causing delays and increasing costs. To prevent the duplication of environmental impact assessments, they asked the Commission to check the quality of the transposition of the relevant EU directives into national legislation, to avoid that the (sometimes automatically) transposed EU text creates contradictions with the existing national legal order.

In 2018, the European sea ports organisation ([ESPO](#)) welcomed the proposal and insisted that to facilitate a swift project approval, approved TEN-T projects should be exempted from the State aid notification requirement. Welcoming the shorter procedures, it argued that project-specific time limits should be applied once the application for the permits has been submitted, leaving applicants as much time to prepare the project thoroughly as needed. Furthermore, ports are convinced that to increase efficiency, it is necessary to simplify the underlying legislation.

Legislative process

The Commission published the proposal on 17 May 2018.

In the European Parliament, the Committee on Transport and Tourism (TRAN) is in charge of the file, while the Committee on Regional Development (REGI) has given an opinion. The TRAN rapporteur, Dominique Riquet (ALDE, France), put forward his [draft report](#) on 17 September 2018. Welcoming the clear deadlines proposed for each stage of the permit-granting procedure, he would shorten them even more (to less than three years for the whole procedure). Further changes would concern the possibility for a Member State to delegate the role of a single competent authority to a more appropriate level than the national one, as long as the principle of 'single point of contact' is observed. The rapporteur introduced a new provision that would make compliance with the deadlines one of the criteria for selecting projects seeking CEF financing.

The REGI committee [opinion](#) of 19 November 2018, prepared by Demetris Papadakis (S&D, Cyprus), suggested that delays could be prevented by involving regional and local levels in consultation procedures from the early planning stage, and that the role of European coordinators in the implementation of cross-border projects should be strengthened. It prompts the Commission to find additional resources for projects with EU added value, without reducing the cohesion policy budget.

The TRAN committee adopted its [report](#) on 10 January 2019, by 37 votes in favour, 6 against and 4 abstentions. MEPs would like the measures to be extended to include the comprehensive network too. Furthermore, they suggest that countries should adopt national priority treatment rules in case they have not got any, and that that joint competent authorities should be set up to manage procedures relating to cross-border projects.

In the Council, during discussions in the working party on transport, intermodal questions and networks, Member States welcomed the effort to cut delays and help implement the TEN-T by 2030. However, some Member States pointed out that the proposed measures did not contribute enough to achieving the proposal's main objective and could slow down progress even more.

Some questioned how a national-level single competent authority in charge of the permit-granting procedures was to be implemented in practice, and what impact it would have on local and regional authorities in terms of financing and workload. Others questioned the legal form chosen (a regulation) and the proposal's compatibility with the principle of subsidiarity, warning that the integrated planning and permit-granting procedures could be counterproductive. To some, the impact assessment does not sufficiently address the factors causing the worst delays: land acquisition, environmental impact assessments, appeals by NGOs and technical or financial issues. Following a compromise proposed by the Austrian Presidency, the Council published a [progress report](#) on 16 November 2018. However, the Transport Council of [3 December 2018](#) confirmed that many aspects of the proposal still need to be addressed before an agreement can be reached.

Given that the interinstitutional negotiations cannot start, the Parliament adopted its [first-reading position](#) in plenary on 13 February 2019. Negotiations towards an early second-reading agreement could begin in the new term, once the Council has finalised its position.

EP SUPPORTING ANALYSIS

Remac M., [Trans-European Transport Network \(TEN-T\)](#), Implementation Appraisal, EPRS, European Parliament, April 2018.

Tuominen M., [Streamlining measures for advancing the realisation of the Trans-European Transport Network](#), Initial Appraisal of a European Commission Impact Assessment, EPRS, European Parliament, August 2018.

OTHER SOURCES

[Trans-European transport network: streamlining measures for advancing the realisation](#), European Parliament, Legislative Observatory (OEIL).

[Study on permitting and facilitating the preparation of TEN-T core network projects](#), European Commission, December 2016.

[Support study for an impact assessment on measures for the streamlining of TEN-T](#), European Commission, September 2018.

ENDNOTES

- ¹ A [job-year](#) means one job for one year. Infrastructure projects mostly require construction work and temporary jobs.
- ² In the 2018 [mid-term evaluation of the CEF](#), the Commission affirmed that a large majority of CEF funding goes to projects that offer wider regional and EU benefits, but have insufficient national funding or market-based financing. For transport, CEF funding was mostly channelled to cross-border TEN-T projects and the 'horizontal' priorities, in particular traffic management systems and alternative fuels.
- ³ Of which €11.05 billion is reserved for projects in EU countries eligible for cohesion funding: Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Greece, Hungary, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovakia and Slovenia.
- ⁴ Such as to extend the possibility to start preparatory construction measures before the plan approval is granted (under conditions) and involve the Bundestag in matters of priority project alignment, to gain political and societal consensus.
- ⁵ In public procurement: streamline and shorten procedures, stimulate competition, maximise transparency and quality dialogue with interested parties, reduce court proceedings, provide training for contracting authorities. In permitting: reduce the duration and introduce deadlines for permits, reduce the costs and risks, streamline or introduce a specific set of rules for cross-border projects and projects of EU added value, ensure that complaints are legitimate, align the timelines of various permitting procedures, set up special purpose agencies at national level, plan jointly larger corridor sections. Further suggestions concerned public acceptance measures, legal certainty and State aid control.
- ⁶ This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under 'EP supporting analysis'.

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