

XIIth LEGISLATURE

IVth PERMANENT COMMITTEE

(Public procurement, building regulation, expropriation, territorial and urban planning, road and rail communications, transports, ports and civil airports, navigation, civil protection, energy, parks and natural reserves, hunting, fishing in inland waters, environmental and landscape protection, quarries, mines, mineral waters)

RESOLUTION no. 1

On 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 - COM(2018) 277 final of 17 May 2018.

Observations in accordance with Protocol No. 2 on the application of the principles of subsidiarity and proportionality of the Treaty on European Union, articles 9, 24, para. 3, and 25 of Law 234/2012 and articles 170 and 170 bis of internal regulation of Friuli Venezia Giulia Legislative Assembly.

Approved unanimously at the session of 16 October 2018

Subject: Resolution on 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 - COM(2018) 277 final of 17 May 2018.

Observations in accordance with Protocol No. 2 on the application of the principles of subsidiarity and proportionality of the Treaty on European Union, articles 9, 24, para. 3, and 25 of Law 234/2012 and articles 170 and 170 bis of internal regulation of Friuli Venezia Giulia Legislative Assembly.

RESOLUTION

The IVth Committee of Legislative Assembly of Friuli Venezia Giulia Autonomous Region

HAVING REGARD TO

- Art. 5 of the Treaty of European Union and the Protocol No. 2 on the application of the principles of subsidiarity and proportionality;
- Art. 117, fifth para. of the Italian Constitution
- Art. 4, 1st para., no. 12) of the Statute of Autonomy, adopted under constitutional Law 31 January 1963, no. 1;
- Art. 17, para. 4, of Regional Law 18 June 2007, no. 17
- Art. 24, para. 3, and 25 of Law 24 December 2012, no. 234
- Art. 170 and 170 bis of internal Regulation of Friuli Venezia Giulia Legislative Assembly

HAVING EXAMINED

The 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 - COM(2018) 277 final of 17 May 2018;

WHEREAS

The European Commission's 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 - COM(2018) 277 final of 17 May 2018, is a part of the Third "Europe on the Move" Package, which delivers on the low-emission mobility strategy and ensures a smooth transition towards clean, competitive and connected mobility for all.

For the European Commission, investments in transport infrastructure, such as those of the Investment Plan for Europe (Juncker Plan), are able to contribute significantly to stimulating economic growth and to boosting investments in the real economy.

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. 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.

However, in the view of the European Commission, 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.

This initiative aims at reducing delays encountered in the implementation of TEN-T infrastructure projects. It sets a maximum limit of three years for the entire authorization process. It also aims to bring greater clarity to the processes which project promoters need to follow, in particular as regards authorization granting, public procurement and other procedures.

To this purpose, the proposal allows for the systematic application of one single framework in case of cross-border projects implemented by a joint entity, with the purpose to 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, estimated by the Commission are as follows:

- Time savings: authorization 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 CO₂ emissions, noise mitigation, air pollution, congestion and lower number of accidents. The reduction of CO₂ 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.

Even if the aims of the proposed regulation, in terms of simplification, acceleration and certainty of procedures for cross-border projects, are commendable, the Fourth Commission of Friuli Venezia Giulia Legislative Assembly

OBSERVES:

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

Article 5th of the Treaty provides that: *"1. The limits of Union competences are governed by the principle of conferral. The use of Union competences is governed by the principles of subsidiarity and proportionality.*

2. Under the principle of conferral, the Union shall act only within the limits of the competences conferred upon it by the Member States in the Treaties to attain the objectives set out therein. Competences not conferred upon the Union in the Treaties remain with the Member States."

In accordance with this principle, there is the doubt that the proposed regulation concerning authorization procedures about environment, landscape, territorial and urban planning and more widely territorial governance might not fall within the competence of the Commission.

The Italian Constitution states that these areas belong to the regional shared competences.

The Statute of the Friuli Venezia Giulia autonomous Region gives to the regional legislative Assembly the exclusive legislative competence on the area of territorial and urban planning, that includes, according to established case-law, the area of building regulation; therefore the Region can establish its own rules for its territory.

Therefore the proposed regulation has an impact on the current regional legislation, which gives the choice of the territorial planning before and the release of the consequent building authorizations after to the relevant regional and municipal authorities, as in the case of national legislation, for which the authorizations to protect the environmental and landscape heritage are mandatory and binding as to content.

For this reason the best choice of the most appropriate legislative instrument for the purposes of the EC proposal would appear to be that of the Directive, which leaves the Member States to decide the adaptation of internal legislative framework and not the regulation, which has direct effect on the national and regional legislation.

ON THE RESPECT OF SUBSIDIARITY AND PROPORTIONALITY PRINCIPLES

In accordance with the above observations, the subsidiarity principle would appear not to be respected by the proposed regulation, because the role of a single Authority competent to issue authorizations does not take into account the fact that the national and regional legislation in force in Italy gives this competence to regional and local authorities.

Specifically in the Friuli Venezia Giulia legislative framework, according to art. 4, paragraph one of the Statute of Autonomy, this area belongs to the exclusive competence of the Region.

Similarly, with regard to the proportionality principle, the choice of the legislative instrument, such as a regulation, seems to be excessively burdensome and impacting. Indeed the regulation has direct and mandatory effects for the Member States legislative frameworks; on the contrary a directive would allow the Member States and their Regions to take into account adequately, during the implementation phase, their own legislative framework and their specific territorial diversity.

However

CONSIDERS

No. 1) with regard to art. 6 of the proposed regulation, it's important to insert a provision that requires the involvement in the procedures of the Regions that are crossed by the infrastructural projects, **in advance** during the **evaluation phase of compatibility** of the project and also before the final authorization;

No. 2) it's important to add at letter b) i) of art. 6, para. 4, "the decisions and opinions to be obtained **of the relevant national, regional and local territorial authorities**, (State, Regions and Municipalities)"

No. 3) it's important to **distinguish** in a specific letter the "**authorities (melius territorial authorities)**" from the other stakeholders, who are generally put to the same letter ii) of paragraph 4, art. 7, which does not take into account the difference that exists between the territorial Authorities, that are democratically elected and express general interests and those groups who are expression of private interests;

No. 4) it's important to involve the public territorial Authorities in the procedures for issuing the authorizations, providing **participating rules**, such as the model of "Service Conference".

No. 5) at least recommends that **mandatory** authorizations of regional and local authorities be expressly established.

REQUIRES that this resolution be sent to the Senate of the Republic and to the Chamber of Deputies in order to provide an opinion in accordance with Protocol No. 2 on the application of the principles of subsidiarity and proportionality of the Treaty on European Union, article 25 of Law 234/2012 and in order to contribute to the further opinions by the Parliamentary Assemblies during the political dialogue with the EU Institutions, in accordance with article 9 of Law 234/2012.

REQUIRES that this resolution be sent to the President of Friuli Venezia Giulia Autonomous Region in accordance with article 24, para. 3, of Law 234/2012, for the purpose of subsequent submission of the present resolution to the Italian President of the Council of Ministers, giving simultaneous communication to the Chambers and to the Conference of Presidents of Regions and Autonomous Provinces ;

SUBMITS also this Resolution to the Italian Conference of Presidents of the Legislative Assemblies of the Regions and of the Autonomous Provinces in order to facilitate the circulation of the information on European participation activities, to the Members of the European Parliament elected in Friuli Venezia Giulia, to the Subsidiarity Network of the European Committee of the Regions, to the Conference of Legislative Regional European Assemblies – CALRE.

Approved unanimously at the session of 16 October 2018 in accordance with Protocol No. 2 on the application of the principles of subsidiarity and proportionality of the Treaty on European Union, articles 9, 24, para. 3, and 25 of Law 234/2012 and articles 170 and 170 bis of internal regulation of Friuli Venezia Giulia Legislative Assembly.