

Call for caution: Council Presidency Compromise on the Regulation speeding up environmental assessments (“Environmental Omnibus”)

The following comments are provided based on the revised Presidency compromise, dated 9 June 2026, on the proposal for a Regulation speeding up environmental assessments, COM(2025)0984.

With this briefing, we would like to call Member States to **exercise caution** regarding specific provisions of the revised compromise, seek **substantial amendments to improve it**, and **oppose the adoption of this text in its current form**.

While the objective of accelerating permitting procedures is widely shared, **the compromise does not address the principal causes of lengthy permitting**. The European Commission’s own [2024 implementation study on the EIA Directive](#) found that insufficient staff, expertise and resources – not the substantive scope of environmental law – are the main cause of delays.

Three main provisions of the compromise **substantially alter core provisions of the EU environmental acquis, creating legal uncertainty** for Member States, public authorities and project developers alike, **without accelerating the energy transition nor strengthening European competitiveness**.

1. Direct amendments to Article 5 Birds Directive / Article 12 Habitats Directive redefine “deliberate” (Article 14b and 14c of the revised Presidency compromise)

The Commission’s proposal already represented a major weakening of environmental protection by stating that project-related killing or disturbance would not be considered “deliberate” if certain “appropriate” mitigation measures were adopted and no significant adverse population-level impacts identified. In practice, this means that the EU’s strict protection regime will be altered at its core, allowing activities that harm protected species to move forward.

The revised Presidency compromise goes further, **directly amending the Birds and Habitats Directive**. In addition to allowing the disturbance and killing of protected species, it also **allows damage to, or destruction of, nests and eggs**. This could have far-reaching consequences as their protection is essential to **ensure the successful reproduction of species**.

Article 8 should be restricted to projects as defined by Article 1(2) EIA Directive. Environmental impact assessments enable the project developer and authorities to be aware of the project’s impacts on the environment and thus to adequately identify and describe appropriate mitigation measures. It would be difficult to ensure compliance of Article 8 without such a framework.

These changes to the Birds and Habitats Directives would overturn decades of case law, guidance and administrative practice, creating substantial legal uncertainty for both nature protection authorities and project developers. They shift the strict protection regime away from the prevention of killing or disturbance of protected species, and towards the acceptance of residual impacts. **Fundamentally departing from the prevention logic of these provisions calls into question whether the objectives of the Birds and Habitats Directive could ever be reached**.

The Court of Justice recently calibrated this standard, indicating Article 5 Birds Directive prohibits deliberate disturbance only where it is significant (C-131/24) – i.e. **EU law already contains a proportionality filter**, reached through interpretation of the existing text. A legislative redefinition of “deliberate” is not needed to achieve that result, and risks unsettling a line of case law that already balances protection and legal certainty. The Commission’s own [March 2026 Guidance](#) on the protection of bird species likewise **shows, on the basis of current law, how developments of projects can be undertaken under the Birds Directive**.

Article 8 of the EC proposal as well as direct amendments in the form of Art. 14b and c of the revised compromise should be **deleted**. If it is retained, at a minimum:

- limit it to species in favourable conservation status;
- exclude destruction of/damage to nests and eggs;
- Ensure the article applies to projects as defined by the EIA Directive, to the exclusion of other activities;
- require all necessary mitigation measures (delete “proportionate”), based on best available scientific data and updated through monitoring;
- ensure cumulative impacts remain expressly assessed by the competent authority.

2. “Strategic projects” (Article 14) becomes an open-ended category with a presumption of overriding public interest

Concerns emerge when looking at the list of strategic sectors in Art. 14(1) (airports, ports, inland waterways, semiconductor facilities, AI factories, supercomputers, data centres), which is expressly **extendable by any future legislation**, without objective limiting criteria, and **includes projects which do not contribute to resilience, decarbonisation or resource efficiency**.

Furthermore, the strategic nature of a project would carry a presumption of public interest. This is concerning given, as recalled by the Commission’s own guidance on Article 6(3)/(4) Habitats Directive, this determination must be made case by case, in light of the specific project and its impact: it should not be pre-empted by a legislative label attached to an entire category of projects.

We strongly urge Member States to strengthen the proposed condition of contributing to “resilience, decarbonisation or resource efficiency”. Not clearly restricting the type of projects that could benefit of this label risks creating an almost unlimited gateway. The notion of “strategic” risk becoming so broad that it ceases to fulfil its intended purpose. Rather than accelerating projects that are genuinely critical for the Union’s energy transition and resilience, the designation risks diluting already extremely limited administrative resources and reducing the effectiveness of the acceleration regime itself.

Experience under the Critical Raw Materials Act shows what strategic designation does in practice: it creates pressure on authorities to close procedures within shortened deadlines even where environmental or safety issues remain unresolved. At the same time, **major industrial and mining projects are already being authorised under the current legal framework**, such as the EMILI lithium mine in France, which is direct evidence that existing environmental law is not the obstacle to delivering strategically important projects.

A more legally robust approach:

- delete this provision; or, at minimum,
- restrict Article 14 to strategic projects already defined in sectoral Union legislation pursuing clearly identified Union energy and climate objectives – e.g. an explicit condition that projects contribute to the Union targets under Regulation (EU) 2021/1119; or limit it to projects contributing to the plans adopted in accordance with Article 3 of the Regulation 2018/999.

3. EIA Directive: project modifications and extensions may escape assessment altogether (Art. 14a of the revised Presidency compromise)

The compromise limits assessment of project modifications to changes with effects “similar to or greater than” (Art. 14a (4)) the original project and allows Annex I projects to escape assessment where additional effects are not considered likely to be significant. This **collapses the Directive’s core structural distinction between Annex I (mandatory assessment) and Annex II (screening)** projects, and risks exempting extensions of ageing industrial installations – power plants, pipelines – that may never have undergone an EIA at all.

The compliance bodies of the Aarhus and Espoo Conventions – international law instruments the EU and its Member States are party to and should comply with – have consistently found that significant project modifications can themselves require environmental assessment and public participation, e.g. time extensions of power plants.

The [Commission’s own 2024 study](#) attributes permitting delays primarily to administrative capacity, which weakens the case that narrowing Annex I’s scope will meaningfully accelerate delivery.

To preserve legal certainty while keeping the acceleration objective:

- for Annex II projects: remove the “similar to or greater” comparator (it fails to cover cases where the scope of the required assessment differs); require mitigation based on best available scientific data, updated through monitoring; exclude older projects that never underwent assessment;
- Annex I projects should be excluded from these changes altogether and continue to undergo assessment.

In short

None of these changes are necessary to accelerate permitting, especially seeing as the Commission’s very own diagnosis points to capacity and coordination, not to the scope of the Birds, Habitats or EIA Directives. **Member States can support faster permitting while seeking substantial amendments to these provisions and opposing adoption of the text in its current form.**