EUROPEAN
COMMISSION

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2025/0340 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union within the Regional Steering Committee of the Transport Community as regards the adoption of the budget of the Transport Community for 2026

EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

This proposal concerns the decision establishing the position to be taken on the Union's behalf in the Regional Steering Committee set up under the Treaty establishing the Transport Community ('the TCT') in connection with the envisaged adoption of a decision on the 2026 budget of the Transport Community.

2. CONTEXT OF THE PROPOSAL

2.1. The Treaty establishing the Transport Community

On 1 May 2019, the Republic of Albania, Bosnia and Herzegovina, the Republic of North Macedonia, Kosovo*, Montenegro and the Republic of Serbia (hereinafter referred to as 'the South East European Parties') have ratified the TCT. The European Union is a party to the TCT, having adopted on 4 March 2019 a Council Decision on the conclusion of the Treaty establishing the Transport Community[1]. The TCT entered into force on 1 May 2019.

2.2. The Regional Steering Committee

The Regional Steering Committee is established by Article 24 of the TCT. It is responsible for the administration of the TCT and for ensuring its proper implementation. For this purpose, it makes recommendations and takes decisions in the cases provided for in the TCT. Notably, the Regional Steering Committee:

(a) prepares the work of the Ministerial Council,

(b) decides on the establishment of technical committees,

(c) as regards newly adopted EU acts, takes appropriate action, notably through the revision of Annex I to the TCT,

(d) appoints the Director of the Permanent Secretariat after consulting the Ministerial Council,

(e) may appoint one or more Deputy Directors of the Permanent Secretariat,

(f) lays down rules of the Permanent Secretariat,

(g) may review, by way of a decision, the level of budget contributions,

(h) adopts the annual budget of the Transport Community,

(i) adopts a decision specifying the procedure for the implementation of the budget, for presenting and auditing accounts and for inspection,

(j) takes decisions on disputes brought by the Contracting Parties,

(k) adopts general principles in the area of access to documents, in respect of documents held by bodies established by, or under, the TCT,

(l) adopts annual reports to the attention of the Ministerial Council on the implementation of the Comprehensive Network, and

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* This designation is without prejudice to positions on status, and is in line with UNSCR 1244 (1999) and the ICJ Opinion on the Kosovo declaration of independence.

1 Council Decision (EU) 2019/392 of 4 March 2019 on the conclusion, on behalf of the European Union, of the Treaty establishing the Transport Community (OJ L 71, 13.3.2019, p. 1), ELI: http://data.europa.eu/eli/dec/2019/392/oj).

(m) in respect of certain Union acts, establishes time limits and ways for the transposition by the South East European Parties.

The Regional Steering Committee is composed of a representative, and an alternate representative, of each of the Contracting Parties. Participation as observers is open to all EU Member States.

The Regional Steering Committee acts by unanimity.

2.3. The envisaged act of the Regional Steering Committee

In 2025, during its last meeting, the Regional Steering Committee is to adopt a decision regarding the budget of the Transport Community for 2026 ('the envisaged act').

The purpose of the envisaged act is to determine the annual budget of the Transport Community for 2026.

The envisaged act will become binding on the parties in accordance with Article 25(1) of the TCT, which provides: 'A decision of the Regional Steering Committee shall be binding upon the Contracting Parties. Whenever a decision taken by the Regional Steering Committee contains a requirement for action to be taken by a Contracting Party, the said Party shall take the necessary measures and inform the Regional Steering Committee thereof.'

3. POSITION TO BE TAKEN ON THE UNION'S BEHALF

The contribution to the budget of the Transport Community is set out in Annex V to the TCT. The share of the Union amounts to 80% of the budget, while the remaining 20% shall be provided by the South East European Parties.

For 2025, the budget amounted to EUR 3.121.200 of which EUR 2.496.960 (80%) from the EU and EUR 624.240 for the South East European Parties.

For 2026, it is proposed that the budget will be EUR 3.183.624. 80% of the fresh credits will come from the EU (EUR 2.546.899) and the remaining 20% of the fresh credits (EUR 636.725) from the South East European Parties.

The proposed budget for 2026 represents a 2 % increase compared to 2025. This is justified by ongoing inflationary developments in the Region and the EU. This amount will cover the running costs of the Permanent Secretariat and the organisation of the meetings of the different bodies of the Transport Community. The 2026 budget also reflects a strong focus on capacity building activities and technical assistance for the Regional Partners.

The adoption of this decision by the Regional Steering Committee is necessary for the implementation of the TCT and for the functioning of the Permanent Secretariat.

4. LEGAL BASIS

4.1. Procedural legal basis

4.1.1. Principles

Article 218(9) of the Treaty on the Functioning of the European Union (TFEU) provides for decisions establishing '*the positions to be adopted on the Union's behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement*.'

The concept of '*acts having legal effects*' includes acts that have legal effects by virtue of the rules of international law governing the body in question. It also includes instruments that do not have a binding effect under international law, but that are '*capable of decisively influencing the content of the legislation adopted by the EU legislature*'[2].

4.1.2. Application to the present case

The Regional Steering Committee is a body set up by a treaty, namely the TCT.

The act which the Regional Steering Committee is called upon to adopt constitutes an act having legal effects. The envisaged act will be binding under international law in accordance with Article 25(1) of the TCT. The envisaged act does not supplement or amend the institutional framework of the TCT. Therefore, the procedural legal basis for the proposed decision is Article 218(9) TFEU.

4.2. Substantive legal basis

4.2.1. Principles

The substantive legal basis for a decision under Article 218(9) TFEU depends primarily on the objective and content of the envisaged act in respect of which a position is taken on the Union's behalf. If the envisaged act pursues two aims or has two components and if one of those aims or components is identifiable as the main one, whereas the other is merely incidental, the decision under Article 218(9) TFEU must be founded on a single substantive legal basis, namely that required by the main or predominant aim or component.

With regard to an envisaged act that simultaneously pursues a number of objectives, or that has several components, which are inseparably linked without one being incidental to the other, the substantive legal basis of a decision under Article 218(9) TFEU will have to include, exceptionally, the various corresponding legal bases.

4.2.2. Application to the present case

The envisaged act is necessary for the proper functioning of the TCT. In turn, the TCT pursues objectives and has components in the area of road, rail and inland waterways transport, which are modes covered by Article 91 TFEU, as well as in the area of sea transport, a mode covered by Article 100(2) TFEU. Because of its horizontal nature, the envisaged act pertains to all these elements. All these elements are inseparably linked without one being incidental to the other.

Therefore, the substantive legal basis of the proposed decision comprises the following provisions: Articles 91 and 100(2) TFEU.

4.3. Conclusion

The legal basis of the proposed decision should be Articles 91 and 100(2) TFEU, in conjunction with Article 218(9) TFEU.

5. PUBLICATION OF THE ENVISAGED ACT

In accordance with Article 25(2) of the Treaty establishing the Transport Community, the decisions of the Regional Steering Committee shall be published in the Official Journal of the European Union.

[2] Judgment of the Court of Justice of 7 October 2014, Germany v Council, C-399/12, ECLI:EU:C:2014:2258, paragraphs 61 to 64.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91 and Article 100(2), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) The Treaty establishing the Transport Community[3] ('TCT') was approved on behalf of the Union by means of Council Decision (EU) 2019/392[4]. It entered into force on 1 May 2019.

(2) Pursuant to Article 35 TCT, the Regional Steering Committee of the Transport Community ('the Steering Committee') is to adopt the budget of the Transport Community every year. Article 35 TCT also empowers the Steering Committee to adopt decisions specifying the procedure for the implementation of the budget.

(3) The Steering Committee is to adopt a decision on the budget of the Transport Community for 2026 during its last meeting in 2025.

(4) The proposed budget of the Transport Community for 2026 covers the costs of human resources, travel, IT equipment and software, as well as operational expenditure such as studies, capacity-building, technical assistance and the organisation of conferences and meetings.

(5) The envisaged act will have legal effects, as it will be binding under international law in accordance with Article 25(1) of the TCT.

(6) It is therefore necessary to establish the position to be taken on the Union's behalf within the Steering Committee.

(7) The position of the Union within the Steering Committee should therefore be based on the attached draft Decision. This draft Decision concerns the budget of the Transport Community for the year 2026, which is necessary for the proper functioning of the bodies of the Transport Community.

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[3] OJ L 278, 27.10.2017, p. 3.

[4] Council Decision (EU) 2019/392 of 4 March 2019 on the conclusion, on behalf of the European Union, of the Treaty establishing the Transport Community (OJ L 71, 13.3.2019, p. 1, ELI: http://data.europa.eu/eli/dec/2019/392/oj).

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on behalf of the Union within the Regional Steering Committee of the Transport Community as regards the adoption of the budget of the Transport Community for the year 2026 shall be based on the draft decision of the Regional Steering Committee attached to this Decision.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at Brussels,

For the Council
The President