The “streamlining” of authorisation: efficiency versus leniency

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• REACH review conclusions v. ClientEarth’s conclusions

• Lessons learned from the General Court

• ClientEarth’s Recommendations for “streamlining”
REACH review conclusions

- Authorisation = “An effective driver for substituting SVHCs”

- Simplification “for the applicants”

- “Good quality applications”: key for more efficiency
ClientEarth’s conclusions

- Authorisation = “An effective driver for substituting SVHCs”
- Simplification “for the applicants public authorities”
- “good quality conform applications”: key for more efficiency
Key issue: leniency towards applicants

• **Flawed applications:**
  - Inadequate description of exposure scenarios
  - No proof that suitable alternatives available for **ALL** uses applied for

  ...

• Evidence in public consultation **contradicting** analysis of alternative

  ➢ Authorisation granted **anyway**
No worries!

Permit awarded as long as you come back in 4 years to show me again (?) that you know how to drive

That's a fail, huh?
Lessons learned from the General Court:

• Burden of proof is on the applicant

• Cannot legally remedy the failures of the application with:
  - “Short” review periods
  - Requiring the missing info later on
  - Leaving the question of alternatives open
That’s a fail, huh?

Indeed
Lessons learned from the General Court:

• RAC/SEAC opinions do not bind the Commission

• Commission **must**:
  - Check coherence, relevance and accuracy of the reasoning of RAC & SEAC
  - Inquire
  - State reasons
Recommendations for “streamlining”

• Send clear messages: no data > no authorisation

• Work on RAC & SEAC opinions:
  - Clarity on the reasoning
  - Clarity on how third party comments are responded to
  - Coherence between reasoning and conclusion
  - Clarity on the remaining unknowns and why they remain
Recommendations for “streamlining”

- Send clear messages: no data, no authorisation
- Work on RAC & SEAC opinions:
  - Clarity on the reasoning v. applicant’s reasoning
  - Clarity on the remaining unknowns
  - Coherence between reasoning and conclusion