Assessment of the effects of certain public and private projects on the environment: provisions concerning the quality of the EIA

2012/0297(COD) - 26/10/2012 - Legislative proposal

PURPOSE: to ensure a high level of protection of the environment and human health through establishing common minimum requirements on the assessment of the effects of certain public and private projects on the environment (EIA).

PROPOSED ACT: Directive of the European Parliament and of the Council.

BACKGROUND: Directive 2011/92/EU (which codifies Directive 85/337/EEC and its three subsequent amendments) contains a legal requirement to carry out an environmental impact assessment (EIA) of public or private projects likely to have significant effects on the environment, prior to their authorisation. The Directive has become a key instrument of environmental integration and has also brought environmental and socio-economic benefits.

The mid-term review of the 6th Environment Action Programme and the latest Commission report published in 2009 on the application and efficacy of the EIA Directive (Directive 85/337/EEC) **stressed the need for improving the assessment of environmental impacts** and to adapt the Directive to the policy, legal and technical context which has evolved considerably.

The general objective of the proposal is to adjust the provisions of the codified EIA Directive (Directive 2011/92/EU), so as to correct shortcomings, reflect ongoing environmental and socio-economic changes and challenges, and align with the principles of smart regulation. The revision of the EIA Directive subscribes to the Europe 2020 strategy, in particular the priority of sustainable growth.

IMPACT ASSESSMENT: the impact assessment, which is submitted with the proposal, identified shortcomings in the current EIA legislation that lead to unsatisfactory implementation and socio-economic costs in the implementation of the Directive. The shortcomings of the Directive can be grouped into three specific problem areas: (1) the screening procedure, (2) the quality and analysis of the EIA and (3) the risks of inconsistencies within the EIA process itself and in relation to other legislation.

The IA assessed a number of policy options with the aim of identifying cost-effective measures to address these problems.

Nine of the twelve amendments analysed are expected to provide significant environmental and socio-economic benefits without additional administrative costs; moderate savings are also expected.

- Two amendments (assessment of alternatives and monitoring) are expected to provide high environmental and socio-economic benefits at moderate costs for developers and with limited or negligible costs for public authorities.

- One amendment (adaptation of the EIA to new challenges) is expected to provide high benefits at moderate to high costs for developers and public authorities.

In the long term, **the significant environmental and socio-economic benefits and the moderate savings associated with the proposed amendments are likely to exceed the administrative costs.**

LEGAL BASIS: Article 192(1) of the Treaty on the Functioning of the European Union.

CONTENT: the proposal for the amendment of Directive 2011/92/EU aims to : (i) strengthen the provisions concerning the quality of the EIA with the aim of achieving a high level of environmental protection; (ii) enhance policy coherence and synergies with other EU law instruments and (iii) simplify procedures, with a view to reducing unnecessary administrative burdens. The main amendments are as follows:

- **Initial screening:** it is proposed to **clarify the screening procedure**, by modifying the criteria of Annex III and specifying the content and justification of screening decisions. These amendments would ensure that EIAs are carried out only for projects that would have significant environmental effects, avoiding unnecessary administrative burden for small-scale projects.

- **Quality and analysis of the EIA**: it is proposed to: (i) introduce amendments to **reinforce the quality of the process** (i.e. mandatory scoping and quality control of EIA information), (ii) **specify the content of the EIA report** (mandatory assessment of reasonable alternatives, justification of final decisions, mandatory post-EIA monitoring of significant adverse effects) and (iii) **adapt the EIA to challenges** (i.e. biodiversity, climate change, disaster risks, availability of natural resources).

- **Risk of inconsistencies**: it is proposed to: (i) **specify the time-frames** for the main stages required by the Directive (public consultation, screening decision, final EIA decision) and (ii) introduce a mechanism, a kind of **EIA one-stop shop** to ensure coordination or joint operation of the EIA with the environmental assessments required under other relevant EU legislation, e.g. Directives 2010/75/EU, 92/43/EEC, 2001/42/EC.

BUDGETARY IMPLICATIONS: the proposal has no implications for the EU budget.

DELEGATED ACTS: the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union.