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

2012/0297(COD) - 16/04/2014 - Final act

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).

LEGISLATIVE ACT: Directive 2014/52/EU of the European Parliament and of the Council amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment.

CONTENT: this Directive amends Directive 2011/92/EU in order to: (i) **strengthen the quality of the environmental impact assessment procedure**; (ii) align that procedure with the principles of smart regulation; and (iii) enhance coherence and synergies with other Union legislation and policies, as well as strategies and policies developed by Member States in areas of national competence.

The amendments **adapt the Directive to the policy, legal and technical contexts**, which have evolved considerably in the last decade.

Assessment of impact: the Directive clarifies that **before development consent is given**, projects likely to have significant effects on the environment must be made subject to a requirement for development consent and an assessment with regard to their effects on the environment.

The environmental impact assessment (EIA) is defined as a **process consisting of**:

- the preparation of an environmental impact **assessment report** by the developer;
- the carrying out of **consultations** with authorities likely to be concerned by the project;
- the **examination by the competent authority** of the information presented in the environmental impact assessment report and any supplementary information provided, where necessary, by the developer, and any relevant information received through the consultations;
- the **reasoned conclusion** by the competent authority on the significant effects of the project on the environment; and
- the integration of the competent authority's reasoned conclusion into **decision on development consent.**

Member States may decide, on a case-by-case basis, not to apply this Directive to projects, or parts of projects, having defence as their sole purpose.

Factors to be taken into account: over the last decade, environmental issues, such as resource efficiency and sustainability, biodiversity protection, climate change, and risks of accidents and disasters, have become more important in policy making.

Accordingly, the directive provides that the EIA shall **identify, describe and assess**, in the light of each individual case, the direct and indirect significant effects of a project on the following factors:

- population and human health;
- biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC;
- land, soil, water, air and climate;
- material assets, cultural heritage and the landscape.

The effects include the expected effects deriving from the vulnerability of the project to **risks of major accidents and/or disasters** that are relevant to the project concerned.

Consultation of interested parties: Member States must take measures to:

- ensure that the **authorities likely to be concerned** by the project are given an opportunity to express their opinion on the information supplied by the developer and on the request for development consent;
- see that the **public is informed through at least a central portal** or easily accessible points of access, at the appropriate administrative level.

Conflicts of interest: in accordance with the wishes of the European Parliament, the Directive establishes clear standards to put an end to conflicts of interest.

Thus, where the competent authority is also the developer, Member States shall at least implement, within their organisation of administrative competences, an appropriate separation between conflicting functions when performing the duties arising from the Directive.

Penalties: the Directive requires Member States to lay down rules on penalties applicable to infringements of the national provisions adopted pursuant to the Directive.

ENTRY INTO FORCE: 15/05/2014.