Environment : effects of public and private projects (amend. Directive 85/337/EEC)

1994/0078(SYN) - 12/03/1994

PREVIOUS COMMUNITY LEGISLATION: Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment - EIA (OJ L 175/40, 5.7.1985). Under the terms of the directive, certain projects likely to have significant effects on the environment (see list in the annex to the directive) require both an environmental impact assessment and a public hearing. PREVIOUS POSITION OF EP: in its resolution on EIA (OJ C 66/82, 15.3.1982), Parliament proposed that where projects had cross-border repercussions EIAs should allow greater participation of the population of the neighbouring Member State. It also proposed that certain individual projects be added to the list of projects subject to an EIA. in its resolution of 21 November 1991 (OJ C 326 /191, 16.12.1991), Parliament deplored the fact that the Commission had not so far complied with its obligation to provide information pursuant to Article 11(3) of Directive 85/337/EEC, so that it was not yet aware of any problems. in its resolution of 9 June 1992 (OJ C 176/35, 13.7.1992), Parliament called on the Commission to ensure that the EIA Directive was enforced and to exercise greater scrutiny over the quality of EIAs, for example by means of spot checks. It also called for rapid progress on the amendment of the EIA Directive, since many projects likely to have significant effects on the environment were not subject to an EIA under European law. in its resolution of 22 January 1993 (OJ C 42/239, 15.2.1993), Parliament called on the Commission to ensure that the EIA Directive was correctly transposed into national law and properly applied and to demand a reliable impact study for all projects financed by the Structural Funds. SITUATION IN THE MEMBER STATES: The Member States largely transposed Directive 85/337/EEC by means of various legal acts (see Commission report on the implementation of Directive 85/337/EEC, COM(93)0028 final). However, there are problems with the application of the Directive in the Member States because certain provisions of the Directive were not couched in sufficiently clear terms, with the result that in some cases the Member States have interpreted the text differently from the Commission, so that significant differences have arisen in the transposition (e.g. with regard to the preconditions for projects which do not require an EIA in every case, as listed in Annex II: in some countries, such as France, Greece, Ireland and the UK, all categories and nearly all subcategories are covered, in Germany nearly all categories and 49 of the 81 subcategories, but in Italy, Denmark and Spain only a few categories and subcategories. Provisions governing the obligation for project developers to provide information also differ widely: in most Member States, the information must be submitted in separate documents, while in Germany and Italy it forms part of the application for authorization). In its 11th annual report on monitoring the application of Community law - 1993 (COM(94)0500 final), the Commission reported on the inadequate application of the EIA Directive: in Spain, it had still not been completely transposed, despite the forwarding of a reasoned opinion in 1992; in 1993, Italy, Ireland and the UK likewise received reasoned opinions. Proceedings have been brought against Belgium, Luxembourg and Germany before the European Court of Justice; in the case of Germany they concerned failure to carry out an EIA before building a waste disposal facility (case C-431/92); in the case of Luxembourg (case C-313/93) and Belgium (case C-133/94, preceded in 1991 by a reasoned opinion) they concerned incomplete or incorrect transposition. concerned failure to carry out an EIA before building a waste disposal facility (case C-431/92); in the case of Luxembourg (case C-313/93) and Belgium (case C-133/94, preceded in 1991 by a reasoned opinion) they concerned incomplete or incorrect transposition.