Basic information

2012/0297(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Assessment of the effects of certain public and private projects on the environment: provisions concerning the quality of the EIA Amending Directive 2011/92/EU, "EIA Directive" 2011/0080(COD) **Subject** 1.20.03 Right of petition 1.20.05 Public access to information and documents, administrative practice 2.80 Cooperation between administrations 3.70.01 Protection of natural resources: fauna, flora, nature, wildlife, countryside; biodiversity 3.70.02 Atmospheric pollution, motor vehicle pollution 3.70.03 Climate policy, climate change, ozone layer 3.70.04 Water control and management, pollution of waterways, water pollution 3.70.05 Marine and coastal pollution, pollution from ships, oil pollution 3.70.06 Soil pollution, deterioration 3.70.08 Radioactive pollution 3.70.09 Transfrontier pollution 3.70.10 Man-made disasters, industrial pollution and accidents 4.20 Public health 4.70.05 Regional cooperation, cross-border cooperation 8.50.01 Implementation of EU law	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ENVI Environment, Public Health and Food Safety	ZANONI Andrea (ALDE)	21/11/2012
	Shadow rapporteur GUTIÉRREZ-CORTINES Cristina (PPE) ARSENIS Kriton (S&D) BÉLIER Sandrine (Verts /ALE) STEVENSON Struan (ECR) FERREIRA João (GUE/NGL) CYMAŃSKI Tadeusz (EFD)	

Committee for opinion	Rapporteur for opinion	Appointed
TRAN Transport and Tourism	CUSCHIERI Joseph (S&D)	09/04/2013

REGI	Regional Development	The committee decided not to give an opinion.	
CULT	Culture and Education	The committee decided not to give an opinion.	
LIBE	Civil Liberties, Justice and Home Affairs	The committee decided not to give an opinion.	
PETI	Petitions	CHOUNTIS Nikolaos (GUE/NGL)	06/11/2012

Council of the European Union

Council configuration	Meetings	Date
Agriculture and Fisheries	3308	2014-04-14
Environment	3211	2012-12-17
Environment	3233	2013-03-21
Environment	3246	2013-06-18

European Commission

Commission DG	Commissioner
Environment	POTOČNIK Janez

European Economic and Social Committee

European Committee of the Regions

Key events

Date	Event	Reference	Summary
26/10/2012	Legislative proposal published	COM(2012)0628	Summary
19/11/2012	Committee referral announced in Parliament, 1st reading		
17/12/2012	Debate in Council		
21/03/2013	Debate in Council		Summary
18/06/2013	Debate in Council		
11/07/2013	Vote in committee, 1st reading		
22/07/2013	Committee report tabled for plenary, 1st reading	A7-0277/2013	Summary
08/10/2013	Debate in Parliament		
09/10/2013	Decision by Parliament, 1st reading	T7-0413/2013	Summary
09/10/2013	Results of vote in Parliament		

12/03/2014	Decision by Parliament, 1st reading	T7-0225/2014	Summary
12/03/2014	Results of vote in Parliament		
14/04/2014	Act adopted by Council after Parliament's 1st reading		
16/04/2014	Final act signed		
16/04/2014	End of procedure in Parliament		
25/04/2014	Final act published in Official Journal		

Technical information

Procedure reference	2012/0297(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Amendments and repeals	Amending Directive 2011/92/EU, "EIA Directive" 2011/0080(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 192-p1
Mandatory consultation of other institutions	European Economic and Social Committee European Committee of the Regions
Stage reached in procedure	Procedure completed
Committee dossier	ENVI/7/11120

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE508.221	11/04/2013	
Amendments tabled in committee		PE510.827	29/05/2013	
Amendments tabled in committee		PE510.870	29/05/2013	
Amendments tabled in committee		PE510.871	29/05/2013	
Amendments tabled in committee		PE510.872	29/05/2013	
Committee opinion	TRAN	PE510.526	19/06/2013	
Committee opinion	PETI	PE507.937	27/06/2013	
Committee report tabled for plenary, 1st reading/single reading		A7-0277/2013	22/07/2013	Summary
Text adopted by Parliament, partial vote at 1st reading /single reading		T7-0413/2013	09/10/2013	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0225/2014	12/03/2014	Summary

Council of the EU

Document type	Reference	Date	Summary

Draft final act	00015/2014/LEX	16/04/2014	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2012)0628	26/10/2012	Summary
Document attached to the procedure	SWD(2012)0354	26/10/2012	
Document attached to the procedure	SWD(2012)0355	26/10/2012	
Commission response to text adopted in plenary	SP(2014)455	10/06/2014	

National parliaments

Document type	Parliament/Chamber	Reference	Date	Summary
Contribution	PT_PARLIAMENT	COM(2012)0628	20/12/2012	
Contribution	IT_SENATE	COM(2012)0628	21/12/2012	
Contribution	CZ_SENATE	COM(2012)0628	13/02/2013	
Contribution	IE_HOUSES-OF-OIREACHTAS	COM(2012)0628	20/03/2013	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES2482/2012	13/02/2013	

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Directive 2014/0052
OJ L 124 25.04.2014, p. 0001 Summary

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.

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

2012/0297(COD) - 21/03/2013

The Council held a public policy debate on proposed changes to the Environmental Impact Assessment (EIA) Directive (Directive 2011/92/EU). The outcome of discussions will provide guidance for further work on this proposal.

Ministers focused on three questions prepared by the Presidency:

1. Do Member States agree with the proposal to introduce an obligation for a **joint or coordinated assessment of a project under one competent authority in all cases**, where the obligation to assess its effects on the environment arises from various Union legislative instruments?

2. Do Member States consider that the s**coping of the environmental impact assessment by the competent authority should be mandatory** in all cases as foreseen in Article 5 of the proposal?

3. Do Member States think that the proposal for a system of **accredited experts** entitled to draw up an environmental report is necessary to ensure the quality such reports?

During the debate, general agreement was expressed on the objective to review the Directive in order to simplify the EIA procedures and to improve their quality. However, considerable concerns were raised with regard to the type of measures proposed by the Commission to achieve this aim.

Ministers expressed concerns on the compatibility of the proposed provisions with the different environmental assessment systems in Member States. In particular, Member States pointed out the risk of increased administrative burden and additional costs. Many delegations considered it not to be appropriate to establish a very prescriptive system at EU level. Most delegations were in favour of flexibility left to Member States to cater for specific situations and to adapt to the existing provisions.

The Commission indicated that some change to the current systems was inevitable to improve the EIA processes for the benefit of the users and the environment. It also showed its openness to Member States' concrete suggestions to make progress on the proposal.

The vote in the European Parliament’s Committee on the Environment, Public Health and Food Safety is scheduled for July 2013.

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

2012/0297(COD) - 22/07/2013 - Committee report tabled for plenary, 1st reading/single reading

The Committee on the Environment, Public Health and Food Safety adopted the report by Andrea ZANONI (ADLE, IT) on the proposal for a directive of the European Parliament and of the Council amending Directive 2011/92/EU of the assessment of the effects of certain public and private projects on the environment.

The committee recommends that Parliament’s position adopted in first reading following the ordinary legislative procedure should amend the Commission proposal as follows:

Projects: the report states that ‘projects’ must include: (1) the execution of construction works, or of other installations or schemes, including demolition works directly linked to the execution of construction works; (2) other interventions in the natural surroundings and landscape including those involving the research **and extraction** of mineral resources.

Conflicts of interest: Members consider that experience acquired in a number of Member States has shown that **specific rules** need to be introduced to put an end to the issue of conflicts of interest, in order to ensure that the aim of the environmental impact assessment procedure is effectively achieved. Accordingly, the competent authorities charged with carrying out assessments must not, under any circumstances, overlap with developers nor be dependent on or subordinate to them.

Drafting and verification of reports: an amendment states that environmental reports must be prepared by **qualified and technically competent experts** and/or committees of national experts whose names shall be made public.

The experts must provide appropriate guarantees of competence and impartiality when verifying environmental reports. These experts shall be responsible for the environmental impact assessments they conduct or supervise or on which they have issued a positive or negative opinion.

Public participation: the public shall have the right to request an environmental impact assessment of a given project considered to be a matter of concern, to that end employing active participation arrangements involving residents, local authorities, or NGOs in particular. The report adds new clauses regarding access to information on revision or amendment of an environmental impact report as well as on measures regarding mitigation or compensation.

With a view to strengthening access and transparency, a **central portal providing timely environmental information electronically should be made available in each Member State**.

Cross-border projects: Member States and neighbouring countries involved shall take all measures necessary to ensure that respective competent authorities cooperate in order to provide jointly for one integrated and coherent cross-border environmental impact assessment from an early planning stage, in accordance with applicable legislation on Union co-funding.

Monitoring and measures on mitigation and compensation: the amended text specifies that Member States shall take the necessary measures to provide that projects are constructed and operated in accordance with the **following principles**:

- all appropriate preventive measures are taken against pollution and no significant pollution is caused;

- the best available techniques are applied and natural resources and energy are used efficiently;
- waste generation is prevented and, where waste is generated, it is prepared for re-use, recycled, recovered;
- the necessary measures are taken to prevent accidents and limit their consequences;
- the necessary measures are taken upon definitive cessation of activities to avoid any risk of pollution and return the site of operation to a satisfactory state.

Where monitoring indicates that mitigation or compensation measures are not sufficient or unforeseen significant adverse environmental effects are observed, the competent authority shall lay down **corrective mitigation or compensation measures** in accordance with the relevant legislation.

Penalties: based on experience, to ensure the harmonised and effective application of the Directive, the legal systems of Member States need to provide for effective and dissuasive penalties where national provisions are infringed, in particular with regard to cases of conflict of interest or corruption.

Shale gas: the report proposes to include the exploration, evaluation and extraction of crude oil and/or natural gas trapped in gas-bearing strata of shale in Annex I of the directive regarding projects that must be made subject to an assessment.

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

2012/0297(COD) - 09/10/2013 - Text adopted by Parliament, partial vote at 1st reading/single reading

The European Parliament adopted amendments (339 votes to 293 with 28 abstentions) to the proposal for a directive of the European Parliament and of the Council amending Directive 2011/92/EU of the assessment of the effects of certain public and private projects on the environment.

The matter had been sent back to the competent committee for re-consideration. The vote was put back to a later session.

The main amendments adopted in plenary were as follows:

Projects: Parliament specified that projects within the meaning of the directive meant interventions in the natural surroundings and landscape including those involving the research and extraction of mineral resources.

The definition of 'development consent' was clarified to state that it means the decision of the competent authority or authorities that entitles the developer to start the project.

Shale gas: Members proposed to include in the list of made subject to environmental impact assessment exploration and hydraulic fracturing extraction activities for non-conventional hydrocarbons (shale gas and oil, 'tight gas, 'coal bed methane'), regardless of the amount extracted.

Conflict of interest: in the light of experience acquired in certain Member States, Parliament proposed to insert specific to avoid the conflict of interest that can arise between the developer of a project that is subject to environmental impact assessment and the competent authorities. In particular, the competent authorities should not also be the developer nor in any way be dependent on, linked to or subordinate to the developer.

Checking reports: the amendments proposed aim to ensure that the persons who check the environmental reports have, due to their qualifications and experience, the necessary technical expertise to carry out the tasks set out in Directive 2011/92/EU in a scientifically objective manner and in total independence from the developer and the competent authorities themselves.

Public participation: Members adopted amendments to ensure that the public would be informed and consulted. The public should have the contact information of and easy and quick access to the authority or authorities responsible for performing the duties arising from the directive. Due attention must be paid to the comments made and opinions expressed by the public.

With a view to strengthening public access and transparency, **a central portal** providing timely environmental information with regard to the implementation of this Directive electronically should be made available in each Member State.

Cross-border projects: Member States and neighbouring countries involved shall take all measures necessary to ensure that respective competent authorities cooperate in order to provide jointly for one integrated and coherent cross-border environmental impact assessment from an early planning stage.

In the case of projects that could have cross-border effects on the environment, the Member States concerned should set up, on the basis of equal representation, a **joint liaison body** responsible for dealing with all the stages in the procedure. The consent of all the Member States concerned should be required for final authorisation of the project.

Penalties: Member States will lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to the directive. The penalties provided for must be effective, proportionate and dissuasive.

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

2012/0297(COD) - 12/03/2014 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 528 votes to 35 votes with 15 abstentions, the proposal for a directive of the European Parliament and of the Council amending Directive 2011/92/EU of the assessment of the effects of certain public and private projects on the environment.

The matter had been sent back to the competent committee by the plenary session of 9 October 2013. Parliament adopted its position at first reading following the ordinary legislative procedure. The amendments adopted in plenary are the result of an agreement negotiated between the European Parliament and the Council.

Assessment of effects: it is clarified that Member States shall adopt all measures necessary to ensure that, before development consent is given, projects likely to have significant effects on the environment by virtue, inter alia, of their nature, size or location are made subject to a requirement for development consent and an assessment with regard to their effects on the environment.

The environmental impact assessment means a process consisting of:

- the preparation of an environmental impact assessment report by the developer;
- the carrying out of consultations with the authorities likely to be affected 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, taking into account the results of the examination and, where appropriate, its own supplementary examination; and
- the integration of the competent authority's reasoned conclusion into any of the decisions on givinig autorisation.

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 take into account: taking into account the direct and indirect significant effects of a project on the following factors: a) population and human health; b) biodiversity, with particular attention to protected species and habitats; land, soil, water, air and climate (for example, gas emissions); d) material assets, cultural heritage and the landscape.

The effects referred to shall 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.

Evaluation report: where an environmental impact assessment is required, the developer shall prepare and submit an environmental impact assessment report. The information to be provided by the developer shall include:

- a description of the project comprising information on the site, design, size and other relevant features of the project;
- a description of the likely significant effects of the project on the environment;
- a description of the features of the project and/or measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment;
- a description of the reasonable alternatives studied by the developer, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment.

Where requested by the developer, the competent authority, taking into account the information provided by the developer, shall issue an opinion on the scope and level of detail of the information to be included by the developer in the environmental impact assessment report. Member States may also require the competent authorities to give an opinion, irrespective of whether the developer so requests.

Consultation of the authorities and public consultation: the authorities likely to be concerned by the project by reason of their specific environmental responsibilities or local and regional competences shall be given an opportunity to express their opinion on the information supplied by the developer and on the request for development consent.

In order to **strengthen transparency**, the relevant environmental information shall be electronically accessible to the public, through at least a **central portal** or easily accessible points of access, at the appropriate administrative level.

Decision to grant development consent: this shall include: a) the reasoned conclusion of the competent authority on the effects of the project on the environment; b) any environmental conditions attached to the decision, a description of any features of the project and/or measures envisaged to avoid, prevent or reduce and, if possible, offset significant adverse effects on the environment as well as, where appropriate, monitoring measures.

The decision to refuse development consent shall state the main reasons for the refusal.

Conflicts of interest: Parliament proposed specific standards to put an end to the phenomenon of conflict of interests.

In cases where the competent authority is also the developer, Member States should at least implement, within their organisation of administrative competences, **an appropriate separation between conflicting functions** of those authorities performing the duties arising from the directive.

Penalties: Member States should lay down rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive. The penalties thus provided for should be effective, proportionate and dissuasive.

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.