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*****I**
REPORT

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 (COM(2012)0628 – C7-0367/2012 – 2012/0297(COD))

Committee on the Environment, Public Health and Food Safety

Rapporteur: Andrea Zanoni

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in bold italics. Highlighting in normal italics is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in bold. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

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 (COM(2012)0628 – C7-0367/2012 – 2012/0297(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2012)0628),
 - having regard to Article 294(2) and Article 192(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0367/2012),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 13 February 2013¹,
 - having regard to the opinion of the Committee of the Regions of 30 May 2013,²
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on the Environment, Public Health and Food Safety and the opinions of the Committee on Transport and Tourism and the Committee on Petitions (A7-0277/2013),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ *OJ C 133, 9.5.2013, p. 33.*

² Not yet published in the Official Journal.

Amendment 1

Proposal for a directive Recital 1

Text proposed by the Commission

(1) Directive 2011/92/EU has harmonised the principles for the environmental assessment of projects by introducing minimum requirements (with regard to the type of projects subject to assessment, the main obligations of developers, the content of the assessment and the participation of the competent authorities and the public), and contributes to a high level of protection of the environment and human health.

Amendment

(1) Directive 2011/92/EU has harmonised the principles for the environmental assessment of projects by introducing minimum requirements (with regard to the type of projects subject to assessment, the main obligations of developers, the content of the assessment and the participation of the competent authorities and the public), and contributes to a high level of protection of the environment and human health. ***The Member States should be permitted to lay down more stringent rules to protect the environment and human health.***

Amendment 2

Proposal for a directive Recital 3

Text proposed by the Commission

(3) It is necessary to amend Directive 2011/92/EU in order to strengthen the quality of the environmental assessment procedure, streamline the various steps of the procedure and 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.

Amendment

(3) It is necessary to amend Directive 2011/92/EU in order to strengthen the quality of the environmental assessment procedure, streamline the various steps of the procedure, ***align the procedure with the principles of smart regulation*** and 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 ultimate purpose of amending this Directive is to bring about more effective implementation at Member State level. In many cases administrative procedures became too complicated and***

protracted, causing delays and creating additional risks for the protection of the environment. In this respect, simplification and harmonisation of the proceedings should be one of the aims of the Directive. The suitability of creating a one-stop shop is to be taken into account with a view to allowing coordinated assessment or joint procedures when several environment impact assessments (EIAs) are required, for instance in cases of cross-border projects, as well as to defining more specific criteria for mandatory assessments.

Amendment 3

Proposal for a directive Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) In order to guarantee harmonised application and equal protection of the environment across the Union, the Commission should in its role as the guardian of the Treaties ensure qualitative as well as procedural compliance with the provisions of Directive 2011/92/EU, including those on public consultation and participation.

Amendment 4

Proposal for a directive Recital 3 b (new)

Text proposed by the Commission

Amendment

(3b) In the case of projects which 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.

Amendment 5

Proposal for a directive Recital 3 c (new)

Text proposed by the Commission

Amendment

(3c) Directive 2011/92/EU should also be revised so in a way that ensures that environmental protection is improved, resource efficiency increased and sustainable growth supported in Europe. To this end, the procedures it lays down should be simplified and harmonised.

Amendment 6

Proposal for a directive Recital 4

Text proposed by the Commission

Amendment

(4) Over the last decade, environmental issues, such as resource efficiency, biodiversity, climate change, and disaster risks, have become more important in policy making *and* should therefore also constitute *critical* elements in assessment and decision-making processes, especially for infrastructure projects.

(4) Over the last decade, environmental issues, such as resource efficiency *and sustainability*, biodiversity *protection*, *land use*, climate change, and *natural and man-made* disaster risks, have become more important in policy making. *They* should therefore also constitute *important* elements in assessment and decision-making processes *for any public or private project likely to have a significant impact on the environment*, especially for infrastructure projects *and as the Commission has not established guidelines for the application of Directive 2011/92/EU on conservation of Historical and Cultural Heritage, the Commission*

should propose a list of criteria and indications , including in relation to visual impact, with a view to a better implementation of the Directive.

Amendment 7

Proposal for a directive Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) Stipulating that it is necessary to take greater account of environmental criteria in all projects could also prove counter-productive if it served to add to the complexity of the procedures involved and to lengthen the time needed to authorise and validate each stage. This could increase costs and even, in itself, come to pose a threat to the environment if infrastructure projects take a very long time to complete.

Amendment 8

Proposal for a directive Recital 4 b (new)

Text proposed by the Commission

Amendment

(4b) It is essential that environmental issues relating to infrastructure projects do not divert attention from the fact that any project will inevitably have an impact on the environment. and it is necessary that the focus be on the balance between the value of a project and its environmental impact.

Amendment 9

Proposal for a directive Recital 5

Text proposed by the Commission

(5) In its Communication entitled ‘Roadmap to a Resource Efficient Europe’, the Commission committed itself to including broader resource efficiency considerations in the context of the revision of Directive 2011/92/EU.

Amendment

(5) In its Communication entitled ‘Roadmap to a Resource Efficient Europe’, the Commission committed itself to including broader resource efficiency **and sustainability** considerations in the context of the revision of Directive 2011/92/EU.

Amendment 10

Proposal for a directive Recital 11

Text proposed by the Commission

(11) Protection and promotion of cultural heritage and landscapes, which are an integral part of the cultural diversity that the Union is committed to respect and promote in accordance with Article 167(4) of the Treaty on the Functioning of the European Union, can usefully build on definitions and principles developed in relevant Council of Europe Conventions, in particular the Convention for the Protection of the Architectural Heritage of Europe, the European Landscape Convention **and** the Framework Convention on the Value of Cultural Heritage for Society.

Amendment

(11) Protection and promotion of cultural heritage and landscapes, which are an integral part of the cultural diversity that the Union is committed to respect and promote in accordance with Article 167(4) of the Treaty on the Functioning of the European Union, can usefully build on definitions and principles developed in relevant Council of Europe Conventions, in particular the Convention for the Protection of the Architectural Heritage of Europe, the European Landscape Convention, the Framework Convention on the Value of Cultural Heritage for Society **and the International Recommendation concerning the Safeguarding and Contemporary Role of Historic Areas adopted in Nairobi in 1976 by UNESCO.**

Amendment 11

Proposal for a directive Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) Visual impact is a key criterion in environmental impact assessment in terms of the preservation of historical and cultural heritage, of natural landscapes and of urban areas; this is another factor that should be applied in assessments.

Justification

Visual impact already exists as a criterion in the national legislation of Member States such as France, Italy and the United Kingdom.

Amendment 12

Proposal for a directive

Recital 12

Text proposed by the Commission

Amendment

(12) When applying Directive 2011/92/EU, it is necessary to ensure ***a competitive business environment, especially for small and medium enterprises, in order to generate*** smart, sustainable and inclusive growth, in line with the objectives set out in the Commission's Communication entitled 'Europe 2020 – A strategy for smart, sustainable and inclusive growth'.

(12) When applying Directive 2011/92/EU, it is necessary to ensure smart, sustainable and inclusive growth, in line with the objectives set out in the Commission's Communication entitled 'Europe 2020 – A strategy for smart, sustainable and inclusive growth'.

Justification

Simplification of the paragraph. Ensuring the competitiveness of undertakings and SMEs is always a positive thing, but can never take precedence over the environmental guarantees that projects must offer.

Amendment 13

Proposal for a directive

Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) 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.

Amendment 14

Proposal for a directive Recital 12 b (new)

Text proposed by the Commission

Amendment

(12b) In order to reduce the administrative burden, facilitate the decision-making process and reduce project costs, the necessary steps should be taken towards standardisation of the criteria in line with Regulation (EU) 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation¹, with the aim of being able to support the use of best available technologies (BAT), improve competitiveness and prevent standards from being interpreted differently.

¹ OJ L 316, 14.11.2012, p.12.

Amendment 15

Proposal for a directive Recital 12 c (new)

Text proposed by the Commission

Amendment

(12c) Again with a view to further simplifying and facilitating the work of

the competent administrations, guidance criteria should be drawn up that take into account the characteristics of the various sectors of economic or industrial activity. This should be based on the instructions under Article 6 of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora¹.

¹ OJ L 206, 22.07.92, p.7.

Amendment 16

Proposal for a directive Recital 12 d (new)

Text proposed by the Commission

Amendment

(12d) In order to ensure the best possible preservation of historical and cultural heritage, guidance criteria should be drawn up by the Commission and/or the Member States.

Justification

In many instances, administrations are not fully aware of which criteria to apply or evaluate in relation to the preservation of historical and cultural heritage. This measure will bring greater certainty.

Amendment 17

Proposal for a directive Recital 13

Text proposed by the Commission

Amendment

(13) Experience has shown that *in* cases of civil emergency compliance with the provisions of Directive 2011/92/EU may have adverse effects, and provision should

(13) Experience has shown that, *as regards projects having as their sole purpose the response given to* cases of civil emergency, compliance with the provisions of

therefore be made to authorise Member States not to apply that Directive in *appropriate* cases.

Directive 2011/92/EU may have adverse effects *on that purpose*, and provision should therefore be made to authorise Member States not to apply that Directive in *those exceptional* cases. *In this respect, the Directive should take into account the provisions of the UN/ECE Espoo Convention on Environmental Impact Assessment in a Transboundary Context, which, in cases of cross-border projects, obliges the participating States to notify and consult each other. In such cross-border projects, the Commission should, where appropriate and possible, play a more pro-active and facilitating role.*

Amendment 18

Proposal for a directive Recital 13 a (new)

Text proposed by the Commission

Amendment

(13a) Article 1(4) of Directive 2011/92/EU, which lays down that that Directive does not apply to projects adopted by a specific act of national legislation, provides for an open-door derogation with limited procedural guarantees and could substantially circumvent the implementation of that Directive.

Amendment 19

Proposal for a directive Recital 13 b (new)

Text proposed by the Commission

Amendment

(13b). Experience has shown that specific rules need to be introduced 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 referred to in

Article 1(2)(f) of Directive 2011/92/EU. 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. For the same reasons, an authority that has been designated as a competent authority under Directive 2011/92/EU should not be able to play that role in relation to projects that are subject to environmental impact assessment which the authority itself has commissioned.

Justification

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

Amendment 20

**Proposal for a directive
Recital 13 c (new)**

Text proposed by the Commission

Amendment

(13c) Proportionality is to be taken into account in the environmental impact assessment of the projects. The requirements that are asked for in the environmental impact assessment of a project should be proportionate with its size and stage.

Amendment 21

**Proposal for a directive
Recital 16**

Text proposed by the Commission

Amendment

(16) When determining whether significant

(16) When determining whether significant

environmental effects are likely to be caused, the competent authorities **should identify** the most relevant criteria to be considered and use the additional information that may be available following other assessments required by Union legislation in order to apply the screening procedure effectively. In this regard, it is appropriate to specify the content of the screening decision, in particular where no environmental assessment is required.

environmental effects are likely to be caused, the competent authorities **should define clearly and strictly** the most relevant criteria to be considered and use the additional information that may be available following other assessments required by Union legislation in order to apply the screening procedure effectively **and transparently**. In this regard, it is appropriate to specify the content of the screening decision, in particular where no environmental assessment is required.

Amendment 22

Proposal for a directive Recital 16 a (new)

Text proposed by the Commission

Amendment

(16a) In order to avoid unnecessary efforts and expenditure, the projects under Annex II should include a statement of intent that never exceeds 30 pages and the projects' characteristics and information on the location of the project to be subject to screening, which should consist of an initial assessment of its viability. That screening should be public and reflect the factors set out in Article 3. It should show the significant direct and indirect effects of the project.

Amendment 23

Proposal for a directive Recital 17

Text proposed by the Commission

Amendment

(17) The competent authorities should **be required to determine** the scope and level of detail of the environmental information to be submitted in the form of an

(17) The competent authorities should, **when they deem it necessary or if the developer so requests, issue an opinion determining** the scope and level of detail

environmental report (scoping). In order to improve the quality of the assessment and streamline the decision-making process, it is important to specify at Union level the categories of information on which the competent authorities should make that determination.

of the environmental information to be submitted in the form of an environmental report (scoping). In order to improve the quality of the assessment, **the simplification of the procedures** and to streamline the decision-making process, it is important to specify at Union level the categories of information on which the competent authorities should make that determination.

Amendment 24

Proposal for a directive Recital 18

Text proposed by the Commission

(18) The environmental report of a project to be provided by the developer should include an assessment of reasonable alternatives relevant to the proposed project, including the likely evolution of the existing state of the environment without implementation of the project (baseline scenario), as a means to improve quality of the assessment process and to allow integrating environmental considerations at an early stage in the project's design.

Amendment

(18) The environmental report of a project to be provided by the developer should include an assessment of reasonable alternatives relevant to the proposed project, including the likely evolution of the existing state of the environment without implementation of the project (baseline scenario), as a means to improve quality of the **comparative** assessment process and to allow integrating environmental considerations at an early stage in the project's design, **in order to enable the choice that is most sustainable and has the least environmental impact to be made.**

Justification

The aim of the assessment of possible reasonable alternatives to the proposed project is to enable an informed comparative choice to be made of the most sustainable and environmentally friendly alternative.

Amendment 25

Proposal for a directive Recital 19

Text proposed by the Commission

(19) Measures should be taken to ensure that the data and information included in the environmental reports, in accordance with Annex IV of Directive 2011/92/EU are complete and of sufficiently high quality. ***With a view to avoiding duplication of the assessment, Member States should take account of the fact that environmental assessments may be carried out at different levels or by different instruments.***

Amendment

(19) Measures should be taken to ensure that the data and information included in the environmental reports, in accordance with Annex IV of Directive 2011/92/EU are complete and of sufficiently high quality.

Justification

Developers must be prevented from excluding the mandatory inclusion in the environmental report of the alternatives to the proposed project simply on the grounds that the assessment of alternatives was supposed to have been conducted at the planning stage.

Amendment 26

Proposal for a directive Recital 19 a (new)

Text proposed by the Commission

(19a) It should be ensured that the experts 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.

Amendment

Justification

The absolute independence of the experts appointed by the competent authorities to verify the information set out in the environmental report is a prerequisite for ensuring a quality EIA. Such verification must be scientifically objective and must not undergo any interference or

undue influence.

Amendment 27

Proposal for a directive Recital 20

Text proposed by the Commission

(20) With a view to ensuring transparency and accountability, the competent authority should be required to substantiate its decision to grant development consent in respect of a project, indicating that it has taken into consideration the results of the consultations carried out and the relevant information gathered.

Amendment

(20) With a view to ensuring transparency and accountability, the competent authority should be required to substantiate ***comprehensively and in detail*** its decision to grant development consent in respect of a project, indicating that it has taken into consideration the results of the consultations carried out ***with the public concerned*** and ***all*** the relevant information gathered. ***Should that condition not be met, the public concerned should have the right to appeal against the decision.***

Amendment 28

Proposal for a directive Recital 21

Text proposed by the Commission

(21) It is appropriate to establish common minimum requirements for the monitoring of the significant adverse effects of the ***construction*** and operation of projects to ensure a common approach in all Member States and to ensure that, after the implementation of mitigation and compensation measures, no impacts exceed those initially predicted. Such monitoring should not duplicate or add to monitoring required pursuant to other Union legislation.

Amendment

(21) It is appropriate to establish common minimum requirements for the monitoring of the significant adverse effects of the ***implementation*** and ***management*** of projects to ensure a common approach in all Member States and to ensure that, after the implementation of mitigation and compensation measures, no impacts exceed those initially predicted. Such monitoring should not duplicate or add to monitoring required pursuant to other Union legislation. ***Where the outcome of the monitoring indicates the presence of unforeseen adverse effects, provision should be made for appropriate corrective action to remedy the problem, in the form***

of additional mitigation and/or compensation measures.

Justification

The introduction of monitoring into the new EIA directive is very important. To prevent such ex-post monitoring from being an end in itself, it is, however, necessary to establish that, where the mitigation and compensation mechanisms are ineffective, the developer must take responsibility for further remedial action in order to correct any unforeseen adverse effects of the authorised project.

Amendment 29

Proposal for a directive

Recital 22

Text proposed by the Commission

(22) Time-frames for the various steps of the environmental assessment of projects should be introduced, in order to stimulate more efficient decision-making and increase legal certainty, also taking into account the nature, complexity, location and size of the proposed project. Such time-frames should under no circumstances compromise the high standards for the protection of the environment, particularly those resulting from other Union environmental legislation, and effective public participation and access to justice.

Amendment

(22) ***Reasonable and predictable*** time-frames for the various steps of the environmental assessment of projects should be introduced, in order to stimulate more efficient decision-making and increase legal certainty, also taking into account the nature, complexity, location and size of the proposed project. Such time-frames should under no circumstances compromise the high standards for the protection of the environment, particularly those resulting from other Union environmental legislation, and effective public participation and access to justice, ***and any extensions should be granted only in exceptional cases.***

Justification

A clear determination of the time-frame is important to ensure legal certainty for all those involved in the environmental impact assessment process. It is therefore advisable to specify that any extensions to the time-frame may be granted only exceptionally.

Amendment 30

Proposal for a directive

Recital 22 a (new)

Text proposed by the Commission

Amendment

(22a) One of the objectives of the UN Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Århus Convention), which the Union has ratified and transposed into Union law¹, is to ensure the right of the public to participate in decision-making in environmental matters. Therefore, that participation, including participation by associations, organisations and groups, in particular non-governmental organisations promoting environmental protection, should continue to be fostered. Moreover, Article 9(2) and (4) of the Århus Convention provides for access to judicial or other procedures for challenging the substantive or procedural legality of decisions, acts or omissions involving public participation. Elements of this Directive should also be strengthened in cross-border transport projects, making use of existing structures for the development of transport corridors and of tools to identify the potential impact on the environment.

¹ Council Decision 2005/370/EC of 17 February 2005 (OJ L 124, 17.5.2005, p. 1).

Justification

Restates, in summary form, the content of recitals 17, 19, 20 and 21 of the old directive. The precepts of the Århus Convention should continue to be included in the recitals to the new directive.

Amendment 31

Proposal for a directive Recital 23 a (new)

Text proposed by the Commission

Amendment

(23a). The production thresholds laid down for crude oil and natural gas in Annex I to Directive 2011/92/EU do not take into account the specificity of daily production levels of non-conventional hydrocarbons, which are often highly variable and lower. Accordingly, despite their environmental impact, projects concerning such hydrocarbons are not subject to compulsory environmental impact assessment. In accordance with the precautionary principle, as called for by the European Parliament resolution of 21 November 2012 on the environmental impacts of shale gas and shale oil extraction activities, it would be appropriate to include non-conventional hydrocarbons (shale gas and oil, 'tight gas, 'coal bed methane'), defined according to their geological characteristics, in Annex I to Directive 2011/92/EU, regardless of the amount extracted, so that projects concerning such hydrocarbons are systematically made subject to environmental impact assessment.

Justification

The current directive does not take account of the daily production levels of non-conventional hydrocarbons. This means that despite their environmental impact, the relevant projects are not subject to mandatory EIA. In accordance with the precautionary principle, and as requested by Parliament in its resolution of 21 November 2012, it is proposed that non-conventional hydrocarbons (shale gas and oil and 'tight gas in the first paragraph, 'coal bed methane' in the second paragraph), be included in Annex I, so that the relevant projects are systematically made subject to EIA.

Amendment 32

Proposal for a directive Recital 24 a (new)

Text proposed by the Commission

Amendment

(24 a) Member States and other project promoters should ensure that assessments of cross border projects are carried out efficiently, avoiding unnecessary delays.

Amendment 33

Proposal for a directive Recital 26

Text proposed by the Commission

Amendment

(26) In order to adjust the selection criteria and the information to be provided in the environmental report to the latest developments in technology and relevant practices, the power to adopt acts, in accordance with Article 290 of the Treaty on the Functioning of the European Union, should be delegated to the Commission in respect of Annexes II.A, III and IV of Directive 2011/92/EU. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.

(26) In order to adjust the selection criteria and the information to be provided in the environmental report to the latest developments in technology and relevant practices, the power to adopt acts, in accordance with Article 290 of the Treaty on the Functioning of the European Union, should be delegated to the Commission in respect of Annexes II.A, III and IV of Directive 2011/92/EU. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. ***The Commission, when preparing and drawing up delegated acts, should ensure the simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.***

(See amendment to Recital 27)

Justification

A technical amendment, to bring the wording of the recital into line with latest practice.

Amendment 34

Proposal for a directive

Recital 27

Text proposed by the Commission

Amendment

(27) The Commission, when preparing and drawing up delegated acts, should ensure the simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.

deleted

(See amendment to Recital 26)

Amendment 35

Proposal for a directive

Article 1 – point 1 – point a

Directive 2011/92/EU

Article 1 – paragraph 2 – point a – indent 1

Text proposed by the Commission

Amendment

- the execution of construction *or* **demolition** works, or of other installations or schemes,

- the execution of construction works, or of other installations or schemes, **including demolition works directly linked to the execution of construction works,**

Amendment 36

Proposal for a directive

Article 1 – point 1 – point a a (new)

Directive 2011/92/EU

Article 1 – paragraph 2 – point a – indent 2

Text proposed by the Commission

Amendment

(aa) in point (a) of paragraph 2, the second indent is replaced by the following:

"- other interventions in the natural surroundings and landscape including

those involving the *research and extraction of mineral resources*;"

Justification

Extraction of mineral resources falls already within the meaning of a project. Research for mineral resources is added in order to cover exploratory actions.

Amendment 37

Proposal for a directive

Article 1 – point 1 – point a b (new)

Directive 2011/92/EU

Article 1 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(ab) point (c) of paragraph 2 is replaced by the following:

"(c) "development consent" means the decision of the competent authority or authorities which entitles the developer to start with the project."

Amendment 38

Proposal for a directive

Article 1 – point 1 – point b

Directive 2011/92/EU

Article 1 – paragraph 2

Text proposed by the Commission

Amendment

(b) in paragraph 2, the following ***definition*** is added:

(b) in paragraph 2, the following ***definitions are*** added:

Amendment 39

Proposal for a directive

Article 1 – point 1 – point b

Directive 2011/92/EU
Article 1 – paragraph 2 – point g

Text proposed by the Commission

(g) "environmental impact assessment" shall mean the process of preparing an environmental report, carrying out consultations (including with the public concerned and the environmental authorities), the assessment by the competent authority, taking into account the environmental report and the results of the consultations in the development consent procedure as well as the provision of information on the decision in accordance with Articles 5 to 10.

Amendment

(g) "environmental impact assessment" shall mean the process of preparing an environmental report **by the developer, including the consideration of reasonable alternatives**, carrying out **the** consultations (including with the public concerned and the environmental authorities), the assessment by the competent authority **and/or by the authorities referred to in Article 6(1)**, taking into account the environmental report, **including data concerning pollution from emissions**, and the results of the consultations in the development consent procedure, **laying down measures to monitor significant adverse environmental effects and mitigation and compensation measures** as well as the provision of information on the decision in accordance with Articles 5 to 10.

Amendment 40

Proposal for a directive

Article 1 – point 1 – point b

Directive 2011/92/EU

Article 1 – paragraph 2 – point g a (new)

Text proposed by the Commission

Amendment

(ga) "independent" means capable of the exercise of objective and comprehensive technical/scientific evaluation, free of any conflict of interest, either real, perceived or apparent, in relation to the competent authority, the developer and/or the national, regional or local authorities.

Amendment 41

Proposal for a directive

Article 1 – point 1 – point b

Directive 2011/92/EU

Article 1 – paragraph 2 – point g b (new)

Text proposed by the Commission

Amendment

(gb) "cross-border section" means the section which ensures the continuity of a project of common interest between the nearest urban nodes on both sides of the border of two Member States or between a Member State and a neighbouring country.

Justification

In order to make this Directive more coherent with the Espoo convention and the new TEN-T regulation, the same wording and definitions are needed.

Amendment 42

Proposal for a directive

Article 1 – point 1 – point b

Directive 2011/92/EU

Article 1 – paragraph 2 – point g c (new)

Text proposed by the Commission

Amendment

(gc) "standard" means a technical specification, adopted by a recognised standardisation body, for repeated or continuous application, with which compliance is not compulsory, and which is one of the following:

(i) "international standard" means a standard adopted by an international standardisation body;

(ii) "European standard" means a standard adopted by a European standardisation organisation;

(iii) "harmonised standard" means a European standard adopted on the basis

of a request made by the Commission for the application of Union harmonisation legislation;

(iv) "national standard" means a standard adopted by a national standardisation body;

Justification

Definition from Regulation (EU) No 1025/2012 on European standardisation.

Amendment 43

Proposal for a directive

Article 1 – point 1 – point b

Directive 2011/92/EU

Article 1 – paragraph 2 – point g d (new)

Text proposed by the Commission

Amendment

(gd) "Urban historical sites" are part of a wider totality, comprising the natural and the built environment and the everyday living experience of their dwellers as well. Within this wider environment, enriched with values of remote or recent origin and permanently undergoing a dynamic process of successive transformations, new urban spaces may be considered as environmental evidence in their formative stages.

Amendment 44

Proposal for a directive

Article 1 – point 1 – point b

Directive 2011/92/EU

Article 1 – paragraph 2 – point g e (new)

Text proposed by the Commission

Amendment

(ge) "corrective action" means further mitigation and/or compensation measures

that may be undertaken by the developer to redress unforeseen adverse effects or any net biodiversity loss identified by project implementation, such as may arise from deficiencies in mitigation of impacts arising from project construction or operation, for which development consent has already been granted.

Amendment 45

Proposal for a directive

Article 1 – point 1 – point b

Directive 2011/92/EU

Article 1 – paragraph 2 – point g f (new)

Text proposed by the Commission

Amendment

(gf) "Visual Impact Assessment": Visual impact is defined as a change in the appearance, or view, of the built or natural landscape and urban areas resulting from the development which can be positive (improvement) or negative (deterioration). Visual impact Assessment also covers the demolition of constructions that are protected or those with a strategic role in the traditional image of a place or a landscape. It shall cover obvious change of geological topography and any other obstacle such as buildings or walls that limit the view of nature as well as the landscape's harmony. Visual impact is assessed largely by qualitative judgements, involving human appreciation of, and interaction with, landscape and the value they give to a place (genius loci).

Justification

Visual impact is essential when referring to coasts, wind farms, historical buildings among other issues.

Amendment 46

Proposal for a directive

Article 1 – point 1 – point b

Directive 2011/92/EU

Article 1 – paragraph 2 – point g g (new)

Text proposed by the Commission

Amendment

(gg) "Joint Procedure": Under the Joint Procedure the competent authority shall issue one environmental impact assessment, integrating the assessments of one or more authorities without prejudice to other provisions of other relevant Union legislation.

Amendment 47

Proposal for a directive

Article 1 – point 1 – point b

Directive 2011/92/EU

Article 1 – paragraph 2 – point g h (new)

Text proposed by the Commission

Amendment

(gh) "Simplification" means the reduction of forms and administrative procedures, the creation of joint procedures or coordination tools to make the assessments made by many authorities to be integrated. It means to establish shared criteria, to make the submission of reports shorter and to strengthen objective and scientific evaluations.

Amendment 48

Proposal for a directive

Article 1 – point 1 – point c

Directive 2011/92/EU

Article 1 – paragraph 3

Text proposed by the Commission

3. Member States may decide, on a case-by-case basis and if so provided under national law, not to apply this Directive to projects having as their sole purpose national defence **or the response to civil emergencies**, if they deem that such application would have an adverse effect on those purposes.

Amendment

3. Member States may decide, on a case-by-case basis and if so provided under national law, not to apply this Directive to projects having as their sole purpose national defence, if they deem that such application would have an adverse effect on those purposes.

Amendment 49

Proposal for a directive

Article 1 – point 1 – point c

Directive 2011/92/EU

Article 1 – paragraph 4

Text proposed by the Commission

4. This Directive shall not apply to projects the details of which are adopted by a specific act of national legislation, provided that the objectives of this Directive, including that of supplying information, are achieved through the legislative process. Every two years from the date specified in Article 2(1) of Directive XXX [OPOCE please introduce the n° of this Directive], Member States shall inform the Commission of any application which they have made of this provision.

Amendment

deleted

Amendment 50

Proposal for a directive

Article 1 – point 1 – point c a (new)

Directive 2011/92/EU

Article 1 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

(ca) the following paragraph is added:

"4a. Member States shall designate the competent authority or authorities in such a way as to ensure their full independence in the performance of the duties assigned to them under this Directive. In particular, the competent authority or authorities shall be designated in such a way as to avoid any relationship of dependence, any links or subordination between them or their members and the developer. A competent authority may not perform its duties under this Directive in relation to a project which it has commissioned itself."

Justification

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

Amendment 51

Proposal for a directive

Article 1 – point 1 a (new)

Directive 2011/92/EU

Article 2 – paragraph 1

Text proposed by the Commission

Amendment

(1a) In Article 2, paragraph 1 is replaced by the following:

"1. Member States shall adopt all measures necessary to ensure that, before 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 *after having consulted the public. Measures to monitor significant adverse environmental effects and mitigation and compensation measures shall be taken, if appropriate, by the competent authority when development consent is given. Those projects are defined in Article 4.*

Justification

Article 2, paragraph 1 is aligned with the new text of Article 8, paragraph 2 where measures to monitor significant adverse environmental effects and mitigation and compensation measures are provided for. Moreover, public participation is enhanced.

Amendment 52

Proposal for a directive

Article 1 – point 2

Directive 2011/92/EU

Article 2 – paragraph 3

Text proposed by the Commission

3. Projects for which the obligation to carry out assessments of the effects on the environment arises simultaneously from this Directive and other Union legislation shall be subject to coordinated or joint procedures fulfilling the requirements of the relevant Union legislation.

Under the coordinated procedure, the competent authority shall coordinate the various individual assessments required by the Union legislation concerned and issued by *several* authorities, without prejudice to ***any provisions to the contrary contained in*** other relevant Union legislation.

Under the joint procedure, the competent authority shall issue one environmental impact assessment, integrating the assessments of one or more authorities,

Amendment

3. Projects for which the obligation to carry out assessments of the effects on the environment arises simultaneously from this Directive and other Union legislation shall be subject to coordinated or joint procedures fulfilling the requirements of the relevant Union legislation, ***except in cases where the Member States deem that the application of those procedures would be disproportionate.***

For projects subject to the coordinated procedure, the competent authority shall coordinate the various individual assessments required by the Union legislation concerned and issued by ***the various*** authorities, without prejudice to other relevant Union legislation.

For projects subject to the joint procedure, the competent authority shall issue one environmental impact assessment, integrating the assessments of one or more

without prejudice to *any provisions to the contrary contained in* other relevant Union legislation.

Member States *shall* appoint one authority, *which shall be* responsible for facilitating the development consent procedure for each project.

authorities, without prejudice to other relevant Union legislation.

Member States *may* appoint one authority responsible for facilitating the development consent procedure for each project.

At the request of a Member state, the Commission shall provide the necessary assistance in order to define and implement the coordinated or joint procedures pursuant to this Article.

In all environmental impact assessments the developer shall in the environmental report demonstrate they have had regard to any other Union legislation relevant to the proposed development for which individual assessments of environmental impact are required.

Amendment 53

Proposal for a directive
Article 1 – point 2 a (new)
Directive 2011/92/EU
Article 2 – paragraph 4

Text proposed by the Commission

Amendment

(2a) In Article 2, paragraph 4 is replaced by the following:

"4. Without prejudice to Article 7, Member States may, in exceptional cases if so provided under national law, exempt a specific project having as its sole purpose the response to civil emergencies in whole or in part from the provisions laid down in this Directive, if such application would have an adverse effect on these purposes.

In that event, the Member States may inform and consult the public concerned and shall:

- (a) consider whether another form of assessment would be appropriate;
- (b) make available to the public concerned the information obtained under other forms of assessment referred to in point (a), the information relating to the decision granting exemption and the reasons for granting it;
- (c) inform the Commission, prior to granting consent, of the reasons justifying the exemption granted, and provide it with the information made available, where applicable, to their own nationals.

The Commission shall immediately forward the documents received to the other Member States.

The Commission shall report annually to the European Parliament and to the Council on the application of this paragraph."

Amendment 54

Proposal for a directive

Article 1 – point 3

Directive 2011/92/EU

Article 3

Text proposed by the Commission

Article 3

The environmental impact assessment shall identify, describe and assess in an appropriate manner, in the light of each individual case and in accordance with Articles 4 to 11, the direct and indirect significant effects of a project on the following factors:

(a) population, human health, and biodiversity, with particular attention to species and habitats protected under

Amendment

Article 3

1. The environmental impact assessment shall identify, describe and assess in an appropriate manner, in the light of each individual case and in accordance with Articles 4 to 11, the direct and indirect significant effects of a project on the following factors:

(a) population, human health, and biodiversity ***including flora and fauna***, with particular attention to species and

Council Directive 92/43/EEC and Directive 2009/147/EC of the European Parliament and of the Council;

- (b) land, soil, water, air and climate ***change***;
- (c) material assets, cultural heritage and the landscape;
- (d) the interaction between the factors referred to in points (a), (b) and (c);
- (e) exposure, vulnerability and resilience of the factors referred to in points (a), (b) and (c), to natural and man-made disaster risks.

habitats protected under ***Directives 92/43/EEC, 2000/60/EC and 2009/147/EC;***

- (b) land, soil, ***subsoil***, water, air and climate;
- (c) material assets, cultural heritage and the landscape;
- (d) the interaction between the factors referred to in points (a), (b) and (c);
- (e) exposure, vulnerability and resilience of the factors referred to in points (a), (b) and (c), to ***likely*** natural and man-made disaster risks.

1a. Where there is standardisation of available procedures for a given project or facility in line with the BAT criteria, the competent authority must take that standardisation into account and centre the environmental impact assessment on the location of the facilities or the project.

Amendment 55

**Proposal for a directive
Article 1 – point 4
Directive 2011/92/EU
Article 4**

Text proposed by the Commission

(4) Article 4 is ***amended as follows***:

(a) paragraphs 3 and 4 are replaced by the following:

Amendment

(4) Article 4 is ***replaced by the following***:

"Article 4

1. Subject to Article 2(4), projects listed in Annex I shall be made subject to an assessment in accordance with Articles 5 to 10.

2. Subject to Article 2(4), for projects listed in Annex II, Member States shall determine whether the project shall be made subject to an assessment in

"3. For projects listed in Annex II, the developer shall provide information on the characteristics of the project, its potential impact on the environment and the measures envisaged in order to avoid and reduce significant effects. The detailed list of information to be provided is specified in Annex II.A.

4. When a case-by-case examination is carried out or thresholds or criteria are set for the purpose of paragraph 2, the competent authority shall take account of selection criteria related to the characteristics and location of the project and its potential impact on the environment. The detailed list of selection criteria *to be used* is specified in Annex III."

(b) The following paragraphs 5 and 6 are added:

"5. The competent authority shall make its decision pursuant to paragraph 2, on the

accordance with Articles 5 to 10. Member States shall make that determination *after having consulted the public* through:

(a) a case-by-case examination;

or

(b) thresholds or criteria set by the Member States.

Member States may decide to apply both procedures referred to in points (a) and (b).

3. For projects listed in Annex II, the developer shall provide *summary* information on the characteristics of the project, its potential impact on the environment and the measures envisaged in order to avoid and reduce significant effects. The detailed list of information to be provided is specified in Annex II.A. *The amount of information to be provided by the developer shall be kept to a minimum and limited to the key aspects that allow the competent authority to make its decision pursuant to paragraph 2. That information shall be made available to the public before the determination for the purposes of paragraph 2, which shall be published on the Internet, thus making for greater transparency and public accessibility.*

4. When a case-by-case examination is carried out or thresholds or criteria are set for the purpose of paragraph 2, the competent authority shall take account of *the relevant* selection criteria related to the characteristics and location of the project and its potential impact on the environment. The detailed list of selection criteria is specified in Annex III.

5. The competent authority shall make its decision pursuant to paragraph 2, on the

basis of the information provided by the developer and taking into account, where relevant, the results of studies, preliminary verifications or assessments of the effects on the environment arising from other Union legislation. The decision pursuant to paragraph 2 shall:

(a) state how the criteria in Annex III have been taken into account;

(b) include the reasons for requiring or not requiring an environmental impact assessment pursuant to Articles 5 to 10;

(c) include a description of the measures envisaged to avoid, prevent and reduce any significant effects on the environment, where it is decided that no environmental impact assessment needs to be carried out pursuant to Articles 5 to 10;

(d) be made available to the public.

6. The competent authority shall make its decision pursuant to paragraph 2 within **three months** from the request for development consent and provided that the developer has submitted all the requisite information. Depending on the nature, complexity, location and size of the proposed project, the competent authority may extend that deadline by a further **3 months**; in that case, the competent authority shall inform the developer of the reasons justifying the extension and of the date when its determination is expected.

Where the project is made subject to an

basis of the information provided by the developer **pursuant to paragraph 3** and taking into account, where relevant, **the comments made by the public and the local authorities concerned**, the results of studies, preliminary verifications or assessments of the effects on the environment arising from other Union legislation. The decision pursuant to paragraph 2 shall:

(b) include the reasons for requiring or not requiring an environmental impact assessment pursuant to Articles 5 to 10, **in particular with reference to the relevant criteria listed in Annex III**;

(c) include a description of the measures envisaged to avoid, prevent and reduce any significant effects on the environment, where it is decided that no environmental impact assessment needs to be carried out pursuant to Articles 5 to 10;

(d) be made available to the public.

6. The competent authority shall make its decision pursuant to paragraph 2 within **a period of time established by the Member State not exceeding 90 days** from the request for development consent and provided that the developer has submitted all the requisite information **pursuant to paragraph 3**. Depending on the nature, complexity, location and size of the proposed project, the competent authority may **exceptionally** extend that deadline **once** by a further **period of time established by the Member State not exceeding 60 days**; in that case, the competent authority shall inform the developer **in writing** of the reasons justifying the extension and of the date when its determination is expected, **making available to the public the information referred to in Article 6(2)**.

Where the project is made subject to an

environmental impact assessment in accordance with Articles 5 to 10, the decision pursuant to paragraph 2 of this Article shall include the *information* set out in Article 5(2)."

environmental impact assessment in accordance with Articles 5 to 10, the decision pursuant to paragraph 2 of this Article shall include the *opinion* set out in Article 5(2), ***if such an opinion was requested in accordance with that Article.***"

Amendment 56

Proposal for a directive

Article 1 – point 5

Directive 2011/92/EU

Article 5 – paragraph 1

Text proposed by the Commission

1. Where an environmental impact assessment must be carried out in accordance with Articles 5 to 10, the developer shall ***prepare*** an environmental report. The environmental report shall be based on the ***determination*** pursuant to paragraph 2 of this Article and include the information that may reasonably be required for making informed decisions on the environmental impacts of the proposed project, taking into account current knowledge and methods of assessment, the characteristics, technical capacity and location of the project, the characteristics of the potential impact, alternatives to the proposed project ***and the extent to which certain matters (including the evaluation of alternatives) are more appropriately assessed at different levels including the planning level, or on the basis of other assessment requirements.*** The detailed list of information to be provided in the environmental report is specified in Annex IV.

Amendment

1. Where an environmental impact assessment must be carried out in accordance with Articles 5 to 10, the developer shall ***submit*** an environmental report. The environmental report shall be based on the ***opinion*** pursuant to paragraph 2 of this Article, ***if such an opinion was issued***, and include the information that may reasonably be required for making informed decisions on the environmental impacts of the proposed project, taking into account current knowledge and methods of assessment, the characteristics, technical capacity and location of the project ***and*** the characteristics of the potential impact. ***The environmental report shall also include reasonable alternatives considered by the developer, which are relevant to the proposed project and its specific characteristics and which enable a comparative assessment of the sustainability of the considered alternatives in the light of their significant impacts.*** The detailed list of information to be provided in the environmental report is specified in Annex IV. ***A non-technical summary of the information provided shall be included in the environmental***

report.

Amendment 57

Proposal for a directive

Article 1 – point 5

Directive 2011/92/EU

Article 5 – paragraph 2

Text proposed by the Commission

2. The competent authority, after having consulted the authorities referred to in Article 6(1) *and* the developer, shall **determine** the scope and level of detail of the information to be included by the developer in the environmental report, in accordance with paragraph 1 of this Article. ***In particular, it shall determine:***

(a) the decisions and opinions to be obtained;

(b) the authorities and the public likely to be concerned;

(c) the individual stages of the procedure and their duration;

(d) reasonable alternatives relevant to the proposed project *and* its specific characteristics;

(e) the environmental features referred to in Article 3 likely to be significantly affected;

(f) the information to be submitted relevant to the specific characteristics of a particular project or type of project;

(g) the information and knowledge

Amendment

2. ***Where the developer so requests when submitting an application for development consent, or where the competent authority or the authorities referred to in Article 6(1) deem it necessary,*** the competent authority, after having consulted the authorities referred to in Article 6(1), the developer ***and the public concerned,*** shall ***issue an opinion determining*** the scope and level of detail of the information to be included by the developer in the environmental report, in accordance with paragraph 1 of this Article, ***including in particular:***

(b) the authorities and the public likely to be concerned;

(c) the individual stages of the procedure and ***timeframes for*** their duration;

(d) reasonable alternatives ***that may be considered by the developer, which are*** relevant to the proposed project, its specific characteristics ***and its significant impacts on the environment;***

(f) the information to be submitted relevant to the specific characteristics of a particular project or type of project;

(g) the information and knowledge

available and obtained at other levels of decision-making or through other Union legislation, and the methods of assessment to be used.

The competent authority may also seek assistance from **accredited** and technically competent experts referred to in paragraph 3 of this Article. Subsequent requests to the developer for additional information may only be made if these are justified by new circumstances and duly explained by the competent authority.

available and obtained at other levels of decision-making or through other Union legislation, and the methods of assessment to be used.

The competent authority may also seek assistance from **independent qualified** and technically competent experts referred to in paragraph 3 of this Article. Subsequent requests to the developer for additional information may only be made if these are justified by new circumstances and duly explained by the competent authority.

Amendment 58

Proposal for a directive

Article 1 – point 5

Directive 2011/92/EU

Article 5 – paragraph 3

Text proposed by the Commission

3. To guarantee the completeness and sufficient quality of the environmental reports referred to in Article 5(1):

(a) the developer shall ensure that the environmental report is prepared by **accredited** and technically competent experts **or**

(b) the competent authority shall ensure that the environmental report is verified by **accredited** and technically competent experts and/or committees of national experts.

Where **accredited** and technically competent experts assisted the competent authority to prepare the determination referred to in Article 5(2), the same experts shall not be used by the developer for the preparation of the environmental report.

The detailed arrangements for the use and selection of **accredited** and technically

Amendment

3. To guarantee the completeness and sufficient quality of the environmental reports referred to in Article 5(1):

(a) the developer shall ensure that the environmental report is prepared by **qualified** and technically competent experts **and**

(b) the competent authority shall ensure that the environmental report is verified by **independent qualified** and technically competent experts and/or committees of national experts **whose names shall be made public**.

Where **independent qualified** and technically competent experts assisted the competent authority to prepare the determination referred to in Article 5(2), the same experts shall not be used by the developer for the preparation of the environmental report.

The detailed arrangements for the use and selection of **qualified** and technically

competent experts (for example qualifications required, assignment of evaluation, licensing, and disqualification), shall be determined by the Member States.

competent experts (for example qualifications *and experience* required, assignment of evaluation, licensing, and disqualification), shall be determined by the Member States. *The qualified and technically competent experts and committees of national experts must provide appropriate guarantees of competence and impartiality when verifying environmental reports or other environmental information in accordance with this Directive, ensuring that their assessment is scientifically objective and independent, without any interference or influence from the competent authority, the developer or the national authorities. 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.*

Amendment 59

Proposal for a directive
Article 1 – point 5 a (new)
Directive 2011/92/EU
Article 5 a (new)

Text proposed by the Commission

Amendment

(5a) The following Article is inserted:

"Article 5a

For cross-border projects the 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.

In the case of European transport network transport projects, the potential

impact on the Natura 2000 network shall be identified using the Commission's TENec system and Natura 2000 software and possible alternatives."

Justification

In the case of transport infrastructure projects, joint use should be made of the RTE-T and Natura 2000 IT tools to avoid potential problems at an early stage.

Amendment 60

Proposal for a directive

Article 1 – point 6 – point -a (new)

Directive 2011/92/EU

Article 6 – paragraph -1 (new)

Text proposed by the Commission

Amendment

(-a) the following paragraph is inserted:

“-1. 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.

Member States shall take the necessary measures, and establish the conditions required, in order to give effect to that right.”;

Amendment 61

Proposal for a directive

Article 1 – point 6 – point -a a(new)

Directive 2011/92/EU

Article 6 – paragraph 1

Text proposed by the Commission

Amendment

(-aa) paragraph 1 is replaced by the following:

"1. Member States shall take the measures necessary to ensure that the authorities likely to be concerned by the project by reason of their specific environmental responsibilities or local jurisdiction are given an opportunity to express their opinion on the information supplied by the developer and on the request for development consent. To that end, Member States shall designate the authorities to be consulted, either in general terms or on a case-by-case basis. The information gathered pursuant to Article 5 shall be forwarded to those authorities. Detailed arrangements for consultation shall be laid down by the Member States.";

Justification

It is worth noting that the authorities concerned by a project subject to EIA which have to be consulted also include the local authorities in whose territory the project is located, if those authorities and the competent authority or authorities are not one and the same.

Amendment 62

Proposal for a directive

Article 1 – point 6 – point -a b (new)

Directive 2011/92/EU

Article 6 – paragraph 2

Text proposed by the Commission

Amendment

(-ab) paragraph 2 is replaced by the following:

"2. The public shall be informed through a central portal which is accessible to the public electronically in accordance with Article 7(1) of Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information^{*}, by public notices and other appropriate means such as electronic media, of the following matters, early in the environmental decision-making procedures referred to

in Article 2(2) and, at the latest, as soon as information can reasonably be provided:

(a) the request for development consent;

(b) the fact that the project is subject to an environmental impact assessment procedure and, where relevant, the fact that Article 7 applies;

(c) details of the competent authorities responsible for taking the decision, those from which relevant information can be obtained, those to which comments or questions can be submitted, and details of the time schedule for transmitting comments or questions;

(d) the nature of possible decisions or, where there is one, the draft decision;

(e) an indication of the availability of the information gathered pursuant to Article 5;

(f) an indication of the times and places where and means by which the relevant information will be made available;

(g) details of the arrangements for public participation made pursuant to paragraph 5 of this Article;

(ga) the fact that Article 8(2) applies and details of the revision or modification of the environmental report and the additional mitigation or compensation measures under consideration;

(gb) the results of the monitoring carried out under Article 8(2)."

* OJ L 41, 14.2.2003, p. 26

Justification

With a view to strengthening access and transparency, a central portal providing timely environmental information electronically should be made available in each Member State. Moreover, new points (g a) and (g b) provide for access to information with regard to the revision or modification of the environmental report as well as the additional mitigation or compensation measures, which are laid down in the new text of Article 8 paragraph 2.

Amendment 63

Proposal for a directive

Article 1 – point 6 – point -a c (new)

Directive 2011/92/EU

Article 6 – paragraph 3

Text proposed by the Commission

Amendment

(-ac) paragraph 3 is replaced by the following:

"3. Member States shall ensure that, within reasonable time-frames, the following is made available *at least through a central portal which is accessible to the public electronically*:

(a) any information gathered pursuant to Article 5;

(b) in accordance with national legislation, the main reports and advice issued to the competent authority or authorities at the time when the public concerned is informed in accordance with paragraph 2 of this Article;

(c) in accordance with the provisions of Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information, information other than that referred to in paragraph 2 of this Article which is relevant for the decision in accordance with Article 8 of this Directive and which only becomes available after the time the public concerned was informed in accordance with paragraph 2 of this Article."

Justification

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

Amendment 64

Proposal for a directive

Article 1 – point 6 – point -a d (new)

Directive 2011/92/EU

Article 6 – paragraph 5

Text proposed by the Commission

Amendment

(-ad) paragraph 5 is replaced by the following:

"5. The detailed arrangements for informing the public (for example by bill posting within a certain radius or publication in local newspapers) and for consulting the public concerned (for example by written submissions or by way of a public inquiry) shall be determined by the Member States. Member States shall take the necessary measures to ensure that the relevant information is provided through a central portal which is accessible to the public electronically in accordance with Article 7(1) of Directive 2003/4/EC."

Justification

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

Amendment 65

Proposal for a directive

Article 1 – point 6 – point b

Directive 2011/92/EU

Article 6 – paragraph 7

Text proposed by the Commission

Amendment

7. The time-frames for consulting the public concerned on the environmental report referred to in Article 5(1) shall not be shorter than 30 days or longer than 60 days. In exceptional cases, where the nature, complexity, location or size of the

7. The time-frames for consulting the public concerned on the environmental report referred to in Article 5(1) shall not be shorter than 30 days or longer than 60 days. In exceptional cases, where the nature, complexity, location or size of the

proposed project so require, the competent authority may extend this time-frame by *a further* 30 days; in that case, the competent authority shall inform the developer of the reasons justifying the extension.

proposed project so require, the competent authority may extend this time-frame by *up to* 30 days; in that case, the competent authority shall inform the developer of the reasons justifying the extension..

Amendment 66

Proposal for a directive

Article 1 – paragraph 1 – point 6 – point b a (new)

Directive 2011/92/EU

Article 6 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

(ba) the following paragraph is added:

"7a. In order to ensure the effective participation of the public concerned in the decision-making procedures, Member States shall ensure that contact information of and easy and quick access to the authority or authorities responsible for performing the duties arising from this Directive be available to the public at any time and regardless of any ongoing specific project subject to an environmental impact assessment, and that due attention is paid to the comments made and opinions expressed by the public."

Amendment 67

Proposal for a directive

Article 1 – paragraph 1 – point 7 a (new)

Directive 2011/92/EU

Article 7 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

(7a) In Article 7, the following paragraph is added:

"5a. In the case of cross-border projects of common interest in the field of transport included in one of the corridors set out in Annex I of the Regulation...⁺ establishing the Connecting Europe Facility, Member States shall be involved in coordinating the work of the public consultations. The coordinator shall ensure that an extensive public consultation process takes place with all stakeholders and civil society during the planning of new infrastructure. In any event, the coordinator may propose ways of developing the corridor plan and implementing it in a balanced manner."

⁺ OJ: please insert the number, date and title of the Regulation establishing the Connecting Europe Facility (2011/0302(COD)).

Justification

Use should be made of those coordinating Trans-European Transport Network corridors in public consultation processes so as to identify at an early stage any potential problems that may arise, bearing in mind the added difficulties involved in cross-border projects.

Amendment 68

Proposal for a directive
Article 1 – point 8
Directive 2011/92/EU
Article 8

Text proposed by the Commission

Article 8

Amendment

Article 8

-1. Member States shall take the necessary measures to provide that projects are constructed and operated in accordance with the following principles:

(a) all appropriate preventive measures are taken against pollution and no significant pollution is caused;

(b) the best available techniques are applied and natural resources and energy are used efficiently;

(c) the generation of waste is prevented and, where waste is generated, it is, in order of priority and in accordance with Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste, prepared for re-use, recycled, recovered or, where that is technically and economically impossible, it is disposed of while avoiding or reducing any impact on the environment;*

(d) the necessary measures are taken to prevent accidents and limit their consequences;

(e) 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 an environmental quality standard requires stricter conditions than those achievable by the use of the best available techniques, additional measures shall be included in the development consent, without prejudice to other measures which may be taken to comply with environmental quality standards.

1. The results of consultations and the information gathered pursuant to Articles 5, 6 and 7 shall be ***taken into consideration*** in the development consent procedure. ***To this end***, the decision to grant development consent shall ***contain*** the following information:

(a) the environmental assessment of the competent authority referred to in Article 3 and the environmental conditions attached to the decision, including a description of the main measures to avoid, reduce and, if possible, offset significant adverse effects;

1. The results of consultations and the information gathered pursuant to Articles 5, 6 and 7 shall be ***given due account and assessed in detail*** in the development consent procedure. The decision to grant development consent shall ***include*** the following information:

(a) ***the results of*** the environmental assessment of the competent authority referred to in Article 3, ***including a summary of the observations and opinions received pursuant to Articles 6 and 7***, and the environmental conditions attached to the decision, including a description of the main measures to avoid, reduce and, if possible, offset significant adverse effects;

(b) *the main reasons for choosing the project as adopted, in the light of the other alternatives considered, including the likely evolution of the existing state of the environment without implementation of the project (baseline scenario);*

(c) a summary of the comments received pursuant to Articles 6 and 7;

(d) a statement summarising how environmental considerations have been integrated into the development consent and how the results of the consultations and the information gathered pursuant to Articles 5, 6 and 7 have been incorporated or otherwise addressed.

For projects likely to have significant adverse transboundary effects, the competent authority shall provide information for not having taken into account comments received by the affected Member State during the consultations carried out pursuant to Article 7.

2. If the consultations and the information gathered pursuant to Articles 5, 6 and 7 **conclude** that a project will have significant adverse environmental effects, the competent authority, as early as possible and **in close cooperation with** the authorities referred to in Article 6(1) and the developer, shall consider whether the environmental report referred to in Article 5(1) should be revised and the project modified to avoid or reduce these adverse effects and whether additional mitigation or compensation measures are needed.

If the competent authority decides to grant development consent, it shall ensure that the development consent includes

(b) *a summary of the assessment of the reasonable alternatives considered, including the likely evolution of the existing state of the environment without implementation of the project (baseline scenario);*

(d) a statement summarising how environmental considerations have been integrated into the development consent and how **the environmental report and** the results of the consultations and the information gathered pursuant to Articles 5, 6 and 7 have been incorporated or otherwise addressed.

For projects likely to have significant adverse transboundary effects, the competent authority shall provide information for not having taken into account comments received by the affected Member State during the consultations carried out pursuant to Article 7.

2. If **in light of** the consultations and the information gathered pursuant to Articles 5, 6 and 7 **the competent authority concludes** that a project will have significant adverse environmental effects, the competent authority, as early as possible and **after having consulted** the authorities referred to in Article 6(1) and the developer, shall consider **whether to refuse development consent or** whether the environmental report referred to in Article 5(1) should be revised and the project modified to avoid or reduce these adverse effects and whether additional mitigation or compensation measures are needed **in accordance with the relevant legislation. At the revision stage of the environmental report, if there is one, the information to the public referred to in Article 6(2) must nonetheless be guaranteed.**

If the competent authority decides to grant development consent, it shall, **in accordance with the relevant legislation,**

measures to monitor the significant adverse environmental effects, in order to assess the implementation and the expected effectiveness of mitigation and compensation measures, and to identify any **unforeseeable** adverse effects.

The type of parameters to be monitored and the duration of the monitoring shall be proportionate to the nature, location and size of the proposed project and the significance of its environmental effects.

Existing monitoring arrangements resulting from other Union legislation may be used if appropriate.

3. When all necessary information gathered pursuant to Articles 5, 6 and 7 has been provided to the competent authority, including, where relevant, specific assessments required under other Union legislation, and the consultations referred to in Articles 6 and 7 have been completed, the competent authority shall conclude its environmental impact assessment of the project within **three months**.

Depending on the nature, complexity, location and size of the proposed project, the competent authority may extend that

ensure that the development consent includes measures to monitor the significant adverse environmental effects, **during the construction, management, demolition and post-closure phases**, in order to assess the implementation and the expected effectiveness of mitigation and compensation measures, and to identify any **unforeseen** adverse effects.

The type of parameters to be monitored and the duration of the monitoring shall be **consistent with the requirements of other Union legislation and** proportionate to the nature, location and size of the proposed project and the significance of its environmental effects. **The results of the monitoring shall be notified to the competent authority and made available to the public in an easily accessible format.**

Monitoring arrangements **including those** resulting from other Union **or national** legislation may be used if appropriate.

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.

3. When all necessary information gathered pursuant to Articles 5, 6 and 7 has been provided to the competent authority, including, where relevant, specific assessments required under other Union legislation, and the consultations referred to in Articles 6 and 7 have been completed, the competent authority shall conclude its environmental impact assessment of the project within **a period of time established by the Member State not exceeding 90 days**.

Depending on the nature, complexity, location and size of the proposed project, the competent authority may,

deadline by a further **3 months**; in that case, the competent authority shall inform the developer of the reasons justifying the extension and of the date when its decision is expected.

4. Before a decision to grant or refuse development consent is taken, the competent authority shall verify whether the information in the environmental report referred to in Article 5(1) is up to date, ***in particular concerning the measures envisaged to prevent, reduce and, where possible, offset any significant adverse effects.***

exceptionally, extend that deadline by ***a further period of time established by the Member State not exceeding 90 days***; in that case, the competent authority shall inform the developer, ***in writing***, of the reasons justifying the extension and of the date when its decision is expected.

4. Before a decision to grant or refuse development consent is taken, the competent authority shall verify whether the information in the environmental report referred to in Article 5(1) is up to date.

* *OJ L 312, 22.11.2008, p. 3.*

Amendment 69

Proposal for a directive

Article 1 – point 9 – point a

Directive 2011/92/EU

Article 9 – paragraph 1

Text proposed by the Commission

1. When a decision to grant or refuse development consent has been taken, the competent authority or authorities shall inform the public and the authorities referred to in Article 6(1) thereof, in accordance with the ***appropriate*** procedures, and shall make available to the public ***the following*** information:

(a) the content of the decision and any

conditions attached thereto

Amendment

1. When a decision to grant or refuse development consent, ***or other decision issued for the purpose of fulfilling the requirements of this Directive***, has been taken, the competent authority or authorities shall inform the public and the authorities referred to in Article 6(1) thereof, ***as soon as possible*** in accordance with the ***national*** procedures, and ***at the latest within 10 working days***. ***The competent authority or authorities*** shall make ***the decision*** available to the public ***and to the authorities referred to in Article 6 (1) in accordance with Directive 2003/4/EC.***

conditions attached thereto;

(b) having examined the environmental report and the concerns and opinions expressed by the public concerned, the main reasons and considerations on which the decision is based, including information about the public participation process;

(c) a description of the main measures to avoid, reduce and, if possible, offset the significant adverse effects;

(d) a description, where appropriate, of the monitoring measures referred to in Article 8(2).

Amendment 70

Proposal for a directive

Article 1 – point 9 – point b

Directive 2011/92/EU

Article 9 – paragraph 3

Text proposed by the Commission

3. Member States *may also decide to* make available to the public the information referred to in paragraph 1, when the competent authority concludes its environmental impact assessment of the project.

Amendment

3. Member States *shall* make available to the public the information referred to in paragraph 1 *before any decision has been taken as to the granting or refusal of development consent*, when the competent authority concludes its environmental impact assessment of the project.

Amendment 71

Proposal for a directive

Article 1 – point 9 – point b a (new)

Directive 2011/92/EU

Article 9 – paragraphs 3 a and 3 b (new)

Text proposed by the Commission

Amendment

(ba) the following paragraphs are added:

"3a. The public may institute a legal challenge, including making an application for injunction, in respect of the development consent decision by initiating legal proceedings within three months after the issue of the formal decision by the competent authority has been duly publicised.

3b. The competent authority or authorities shall ensure that projects with development consent will not commence prior to the expiry of the time-limit for legal challenge."

Amendment 72

Proposal for a directive
Article 1 – point 9 a (new)
Directive 2011/92/EU
Article 10 – paragraph 1

Text proposed by the Commission

Amendment

(9a) In Article 10 paragraph 1 is replaced by the following:

"The provisions of this Directive shall not affect the obligation on the competent authorities to respect the limitations imposed by national laws, regulations and administrative provisions and accepted legal practices with regard to commercial and industrial confidentiality, including intellectual property, and the safeguarding of the public interest, provided that they comply with Directive 2003/4/EC."

Justification

The provisions of this Directive, as regards access to information during the environmental impact assessment, need to be coordinated with the provisions of Directive 2003/4/EC on access to information, public participation in decision-making and access to justice in environmental matters.

Amendment 73

Proposal for a directive
Article 1 – point 9 b (new)
Directive 2011/92/EU
Article 10 a (new)

Text proposed by the Commission

Amendment

(9b) The following Article is inserted:

"Article 10a

Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive."

Justification

Based on experience, to ensure the harmonised and effective application of the Directive, the legal systems of the 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.

Amendment 74

Proposal for a directive
Article 1 – point 9 c (new)
Directive 2011/92/EU
Article 11 – paragraph 2

Text proposed by the Commission

Amendment

(9c) In Article 11, paragraph 2 is replaced by the following:

"2. Member States shall determine at what stage the decisions, acts or omissions may be challenged, providing the possibility to challenge the substantive and procedural legality of decisions, acts

or omissions in accordance with paragraph 1, including the use of interim measures to ensure the project does not start before the review process is completed."

Amendment 75

Proposal for a directive

Article 1 – point 9 d (new)

Directive 2011/92/EU

Article 11 – paragraph 4 – subparagraph 2

Text proposed by the Commission

Amendment

(9d) In Article 11, the second subparagraph of paragraph 4 is replaced by the following:

"Any such procedure shall be adequate and effective, allow for applications for injunctive relief, and be fair, equitable, timely and not prohibitively expensive."

Amendment 76

Proposal for a directive

Article 1 – point 11

Directive 2011/92/EU

Article 12 b – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Where, owing to the specific characteristics of given sectors of economic activity, this is deemed appropriate in the interests of a correct environmental impact assessment, the Commission shall, in conjunction with the Member States and the sector concerned, draw up sector-specific guidelines and criteria to be followed in such a way that simplifies, and facilitates standardisation of, the environmental impact assessment.

Amendment 77

Proposal for a directive

Article 2 – paragraph 1 – subparagraph 1

Text proposed by the Commission

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [**DATE**] at the latest. They shall forthwith communicate to the Commission the text of those provisions and a document explaining the relationship between them and this Directive.

Amendment

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by ...⁺ at the latest. They shall forthwith communicate to the Commission the text of those provisions and a document explaining the relationship between them and this Directive.

⁺ ***OJ: please insert date: 24 months from the entry into force of this Directive.***

Justification

Given the complexity of the provisions laid down in this Directive, an adequate transposition time-frame of two years is necessary.

Amendment 78

Proposal for a directive

Article 3

Text proposed by the Commission

Projects for which the request for development consent was introduced before the date referred to in the first subparagraph of Article 2(1) and for which the environmental impact assessment has not been concluded before that date ***shall be subject to the obligations referred to in Articles 3 to 11 of Directive 2011/92/EU as amended by this Directive.***

Amendment

Projects for which the request for development consent was introduced before the date referred to in the first subparagraph of Article 2(1) and for which the environmental impact assessment has not been concluded before that date ***must be executed within eight months of the approval of the*** amended Directive.

⁺ OJ: please insert date: one year after the entry into force of the amending Directive.

⁺ OJ: please insert date: one year after the entry into force of the amending Directive.

Amendment 79

Proposal for a directive
Annex – point -1 (new)
Directive 2011/92/EU
Annex I

Text proposed by the Commission

Amendment

(-1) Annex I is amended as follows:

(a) the title is replaced by the following:

**"PROJECTS REFERRED TO IN
ARTICLE 4(1) (PROJECTS SUBJECT
TO MANDATORY ENVIRONMENTAL
IMPACT ASSESSMENT)"**

(b) the following point is inserted:

"4a. Open-cast mining and similar open-air extractive industries."

(c) in point 7, point (a) is replaced by the following:

'(a) construction of lines for long-distance railway traffic and of airports [...];'

(d) the following point is inserted in point 7:

'(aa) establishment of arrival and departure routes to/from the route network connection;'

(e) the following points (14a) and (14b) are inserted:

"14a. Exploration, evaluation and extraction of crude oil and/or natural gas trapped in gas-bearing strata of shale or in other sedimentary rock formations of equal or lesser permeability and porosity, regardless of the amount extracted.

14b. Exploration and extraction of natural gas from coal beds, regardless of the amount extracted.

(f) point 19 is replaced by the following:

"19. Quarries and open-cast mining where the surface of the site exceeds 25

hectares, *gold mines which use processes involving cyanide ponds, or peat extraction, where the surface of the site exceeds 150 hectares.*"

(g) point 20 is replaced by the following:

"20. Construction, modification or extension of overhead, underground or combined overhead and underground electrical power lines, and/or upgrading of such lines of a voltage that is 220 kV or more and of a length of more than 15 km, and construction and/or modification of their related substations (current transformer stations, current converter stations and current distributor stations of the auto-underground type and vice-versa)."

(h) the following point 24a is added:

"24a. Theme parks and golf courses planned for areas of water shortage or at high risk of desertification or drought."

Amendment 80

Proposal for a directive
Annex – point -1 a (new)
Directive 2011/92/EU
Annex II

Text proposed by the Commission

Amendment

(-1a) Annex II is amended as follows:

(a) the title is replaced by the following:

"PROJECTS REFERRED TO IN ARTICLE 4(2) (PROJECTS SUBJECT TO ENVIRONMENTAL IMPACT ASSESSMENT AT THE DISCRETION OF THE MEMBER STATES)";

(b) the following point is inserted in paragraph 1:

"(fa) Wild capture fishing activities;"
(c) point (c) of paragraph 2 is replaced by the following:
"(c) Research and exploration of minerals and extraction of minerals by marine or fluvial dredging;"
(d) point (d) of paragraph 10 is deleted.
(e) the following point is inserted in paragraph 13:
"(aa) Any demolition of projects listed in Annex I or this Annex, which may have significant adverse effects on the environment."

Amendment 81

Proposal for a directive

Annex – point 1

Directive 2011/92/EU

Annex II.A

Text proposed by the Commission

Amendment

ANNEX II.A – INFORMATION
REFERRED TO IN ARTICLE 4(3)

ANNEX II.A – INFORMATION
REFERRED TO IN ARTICLE 4(3)
***(SUMMARY INFORMATION
PROVIDED BY THE DEVELOPER ON
THE PROJECTS LISTED IN ANNEX
II)***

1. A description of the project, including *in particular*:

1. A description of the project, including:

(a) a description of the physical characteristics of the whole project, including, where relevant, its subsurface, during the construction *and* operational phases;

(a) a description of the physical characteristics of the whole project, including, where relevant, its subsurface *and underground*, during the construction, operational *and demolition* phases;

(b) a description of the location of the project, with particular regard to the environmental sensitivity of geographical areas likely to be affected.

(b) a description of the location of the project, with particular regard to the environmental sensitivity of geographical areas likely to be affected.

2. A description of the aspects of the environment likely to be significantly

2. A description of the aspects of the environment likely to be significantly

affected by the proposed project.

3. A description of the likely significant effects of the proposed project on the environment resulting from:

(a) the expected residues and emissions and the production of waste;

(b) the use of natural resources, in particular soil, land, water, and biodiversity, including hydromorphological changes.

4. A description of the measures envisaged to avoid, prevent or reduce *any* significant adverse effects on the environment.

affected by the proposed project.

3. A description of the likely significant effects of the proposed project on the environment, ***including risks to the health of the population concerned and the effects on the landscape and cultural heritage***, resulting from:

(a) the expected residues and emissions and the production of waste ***where relevant***;

(b) the use of natural resources, in particular soil, land, water, and biodiversity (including hydromorphological changes).

4. A description of the measures envisaged to avoid, prevent or reduce ***the*** significant adverse effects on the environment, ***in particular when they are considered irreversible***.

Amendment 82

Proposal for a directive

Annex – point 2

Directive 2011/92/EU

Annex III

Text proposed by the Commission

ANNEX III – SELECTION CRITERIA REFERRED TO IN ARTICLE 4(4)

1. CHARACTERISTICS OF PROJECTS

The characteristics of projects must be considered with particular regard to:

(a) the size of the project, including, where relevant, its subsurface;

(b) cumulation with other projects and

Amendment

ANNEX III – SELECTION CRITERIA REFERRED TO IN ARTICLE 4(4)
(CRITERIA TO DETERMINE WHETHER THE PROJECTS LISTED IN ANNEX II SHOULD BE SUBJECT TO ENVIRONMENTAL IMPACT ASSESSMENT)

1. CHARACTERISTICS OF PROJECTS

The characteristics of projects must be considered with particular regard to:

(a) the size of the project, including, where relevant, its subsurface;

activities;

(c) the use of natural resources, in particular land, soil, water, and biodiversity, including hydromorphological changes;

(d) the production of waste;

(e) pollution and nuisances;

(f) the natural and man-made disaster risks and risk of accidents, with particular regard to hydromorphological changes, substances, or technologies or living organisms used, to specific surface and subsurface conditions or alternative use, and to **the probability of accidents or disasters and** the vulnerability of the project to **these** risks;

(g) impacts of the project on climate **change** (in terms of greenhouse gas emissions including from land use, land-use change and forestry), contribution of the project to an improved resilience, and the impacts of climate change on the project (e.g. if the project is coherent with a changing climate);

(h) impacts of the project on the environment, in particular on land (increase of settlement areas over time – land take), soil (organic matter, erosion, compaction, sealing), water (quantity and quality), air and biodiversity (population quality and quantity and ecosystem degradation and fragmentation);

(i) the risks to human health (e.g. due to water contamination **or** air pollution);

(j) impact of the project on cultural heritage and landscape.

(c) the use of natural resources, in particular land, soil, **subsoil**, water, and biodiversity (including hydromorphological changes);

(d) the production of waste;

(e) pollution and nuisances (**the emission of pollutants, noise, vibration, light, heat and radiation**), and **their potential health impacts**;

(f) the natural and man-made disaster risks and risk of accidents, with particular regard to hydromorphological changes, substances, or technologies or living organisms used, to specific surface and subsurface conditions or alternative use, **to local geological characteristics**, and to the vulnerability of the project to risks of **accidents or disasters that can be reasonably regarded as characteristic to its nature**;

(g) impacts of the project on climate (in terms of **likely** greenhouse gas emissions including from land use, land-use change and forestry), contribution of the project to an improved resilience, and the impacts of climate change on the project (e.g. if the project is coherent with a changing climate);

(h) impacts of the project on the environment, in particular on land (increase of settlement areas over time – land take, **loss of agricultural and forest areas**), soil (organic matter, erosion, compaction, sealing), **subsoil**, water (quantity and quality), air (**emissions of air pollutants and air quality**) and biodiversity (population quality and quantity and ecosystem degradation and fragmentation);

(i) the risks to human health (e.g. due to water contamination, air pollution **or noise**);

(j) impact of the project on cultural heritage and landscape.

2. LOCATION OF PROJECTS

The environmental sensitivity of geographical areas likely to be affected by projects must be considered, with particular regard to:

- (a) the existing and planned land use, including land take and fragmentation;
- (b) the relative abundance, availability, quality and regenerative capacity of natural resources (including soil, land, water, and biodiversity) in the area;
- (c) the absorption capacity of the natural environment, paying particular attention to the following areas:
 - (i) wetlands, riparian areas, river mouths;
 - (ii) coastal zones;
 - (iii) mountain and forest areas;
- (iv) nature reserves and parks, permanent pastures, agriculture areas with a high nature value;
- (v) areas classified or protected under Member States' legislation; Natura 2000 areas designated by Member States pursuant to Directive 2009/147/EEC of the European Parliament or of the Council and Council Directive 92/43/EEC; areas protected by international conventions;
- (vi) areas in which there has already been a failure to meet the environmental quality standards, laid down in Union legislation and relevant to the project, or is likely to be such a failure;
- (vii) densely populated areas;
- (viii) landscapes and sites of historical,

2. LOCATION OF PROJECTS

The environmental sensitivity of geographical areas likely to be affected by projects must be considered, with particular regard to:

- (a) the existing and planned land use, including land take and fragmentation;
- (b) the relative abundance, availability, quality and regenerative capacity of natural resources (including soil, land, water, and biodiversity) in the area;
- (c) the absorption capacity of the natural environment, paying particular attention to the following areas:
 - (i) wetlands, riparian areas, river mouths;
 - (ii) coastal zones;
 - (iii) mountain and forest areas;
 - (iiia) areas with potential significant flood risk;**
- (iv) nature reserves and parks, permanent pastures **and environmentally valuable pastures**, agriculture areas with a high nature value;
- (v) areas classified, **subject to restrictions** or protected under **national or regional** legislation; Natura 2000 areas designated by Member States pursuant to Directive 2009/147/EEC of the European Parliament or of the Council and Council Directive 92/43/EEC; areas protected by international conventions **ratified by the Member States;**
- (vi) areas in which there has already been a failure to meet the environmental quality standards, laid down in Union legislation and relevant to the project, or is likely to be such a failure;
- (vii) densely populated areas;
- (viiia) areas populated by especially sensitive or vulnerable groups (including hospitals, schools, retirement homes);**
- (viii) landscapes and sites of historical,

cultural or archaeological significance.

3. CHARACTERISTICS OF THE POTENTIAL IMPACT

The potential significant effects of projects must be considered in relation to criteria set out under 1 and 2 above, with particular regard to:

- (a) the magnitude and spatial extent of the impact (geographical area and size of the population likely to be affected);
- (b) the nature of the impact;
- (c) the transboundary nature of the impact;
- (d) the intensity and complexity of the impact;
- (e) the probability of the impact;
- (f) the duration, frequency and reversibility of the impact;
- (g) the speed of onset of the impact;
- (h) the cumulation of impacts with the impacts of other projects (in particular existing and/or approved) by the same or different developers;
- (i) the aspects of the environment likely to be significantly affected;
- (k) the information and findings on environmental effects obtained from assessments required under other EU

cultural or archaeological significance;
(viii) seismic areas or those with a high risk of natural catastrophe.

Any relevant thresholds that are set by Member States for the areas referred to under points (i) to (viii) should have particular regard to the environmental value, relative abundance and average size of such areas within the national setting.

3. CHARACTERISTICS OF THE POTENTIAL IMPACT

The potential significant effects of projects must be considered in relation to criteria set out under 1 and 2 above, with particular regard to:

- (a) the magnitude and spatial extent of the impact (geographical area and size of the population likely to be affected);
- (b) the nature of the impact;
- (c) the transboundary nature of the impact;
- (d) the intensity and complexity of the impact;
- (e) the probability of the impact;
- (f) the duration, frequency and reversibility of the impact;
- (g) the speed of onset of the impact;
- (h) the cumulation of impacts with the impacts of other projects (in particular existing and/or approved) by the same or different developers, *to the extent situated in the geographical area likely to be affected and not yet constructed or operational, without being obliged to take other information than existing or publicly available information into account;*
- (i) the aspects of the environment likely to be significantly affected;
- (k) the information and findings on environmental effects *and potential impacts* obtained from assessments

legislation.

(l) the possibility of reducing impacts effectively.

required under other Union legislation.

(l) the possibility of *avoiding, preventing or* reducing impacts effectively.

3a. SECTOR-SPECIFIC CRITERIA GUIDES

Criteria guides on environmental impact assessments shall be drawn up for the various sectors of economic activity if the Commission or the Member States consider this appropriate. The aim will be to simplify procedures and increase legal certainty in respect of environmental impact assessments, and to avoid differing implementation by different competent authorities.

Environmental impact assessments relating to historical and cultural heritage and to the countryside will be conducted on the basis of criteria set out in a guide indicating the factors that must be respected.

Amendment 83

Proposal for a directive

Annex – point 2

Directive 2011/92/EU

Annex IV

Text proposed by the Commission

Amendment

ANNEX IV – INFORMATION
REFERRED TO IN ARTICLE 5(1)

ANNEX IV – INFORMATION
REFERRED TO IN ARTICLE 5(1)
**(INFORMATION TO BE PROVIDED
BY THE DEVELOPER IN THE
ENVIRONMENTAL REPORT)**

1. Description of the project, including in particular:

1. Description of the project including in particular:

(-a) a description of the location of the project;

(a) a description of the physical characteristics of the whole project, including, where relevant, its subsurface,

(a) a description of the physical characteristics of the whole project, including, where relevant, its subsurface,

and the water use and land-use requirements during the construction *and* operational phases;

(b) a description of the main characteristics of the production processes, for instance, nature and quantity of the materials, energy and natural resources (including water, land, soil and biodiversity) used;

(c) an estimate, by type and quantity, of expected residues and emissions (water, air, soil and subsoil pollution, noise, vibration, light, heat, radiation, etc.) resulting from the operation of the proposed project.

2. A description, of the technical, locational or other aspects (e.g. in terms of project design, technical capacity, size and scale) of the alternatives considered, ***including the identification of the least environmentally impacting one***, and an indication of the main reasons for the choice made, ***taking into account the environmental effects***.

3. A description of the relevant aspects of the ***existing*** state of the environment and the likely evolution thereof without implementation of the project (***baseline scenario***). This description should cover any existing environmental problems relevant to the project, including, in particular, those relating to any areas of a particular environmental importance and the use of natural resources.

4. A description of the ***aspects*** of the

and the water use and land-use requirements during the construction, operational ***and where relevant demolition*** phases;

(aa) a description of the energy costs, the costs of recycling waste caused by demolition, the consumption of additional natural resources when a demolition project is undertaken;

(b) a description of the main characteristics of the production processes, for instance, nature and quantity of the materials, energy and natural resources (including water, land, soil and biodiversity) used;

(c) an estimate, by type and quantity, of expected residues and emissions (water, air, soil and subsoil pollution, noise, vibration, light, heat, radiation, etc.) resulting from the operation of the proposed project.

2. A description, of the technical, locational or other aspects (e.g. in terms of project design, technical capacity, size and scale) of the ***reasonable*** alternatives considered ***by the developer, which are relevant to the proposed project and its specific characteristics and which enable a comparative assessment of the sustainability of the considered alternatives in the light of their significant environmental impacts***, and an indication of the main reasons for the choice made.

3. A description of the relevant aspects of the ***current*** state of the environment (***baseline scenario***) and the likely evolution thereof without implementation of the project, ***where the natural or social changes from the baseline scenario can be reasonably predicted***. This description should cover any existing environmental problems relevant to the project, including, in particular, those relating to any areas of a particular environmental importance and the use of natural resources.

4. A description of the ***factors*** of the

environment likely to be significantly affected by the proposed project, including, in particular, population, human health, fauna, flora, biodiversity **and the ecosystem services it provides**, land (land take), soil (organic matter, erosion, compaction, sealing), water (quantity and quality), air, climatic factors, climate **change** (greenhouse gas emissions, including from land use, land use change and forestry, mitigation potential, impacts relevant to adaptation, if the project takes into account risks associated with climate change), material assets, cultural heritage, including architectural and archaeological ones, landscape; such a description should include the inter-relationship between the above factors, as well as the exposure, vulnerability and resilience of the above factors to natural and man-made disaster risks.

5. A description of the likely significant effects of the proposed project on the environment resulting from, inter alia:

- (a) the existence of the project;
- (b) the use of natural resources, in particular land, soil, water, biodiversity **and the ecosystem services it provides**, considering as far possible the availability of these resources also in the light of changing climatic conditions;
- (c) the emission of pollutants, noise, vibration, light, heat and radiation, the creation of nuisances, and the elimination of waste;
- (d) the risks to human health, cultural heritage or the environment (e.g. due to accidents or disasters);
- (e) the cumulation of effects with other projects and activities;

environment likely to be significantly affected by the proposed project, including, in particular, population, human health, fauna, flora, biodiversity, land (land take), soil (organic matter, erosion, compaction, sealing), water (quantity and quality), air, climatic factors, climate (greenhouse gas emissions, including from land use, land use change and forestry, mitigation potential, impacts relevant to adaptation, if the project takes into account risks associated with climate change), material assets **(including adverse impacts on property values resulting from deterioration of the environmental factors)**, cultural heritage, including architectural and archaeological ones, landscape; such a description should include the inter-relationship between the above factors, as well as the exposure, vulnerability and resilience of the above factors to natural and man-made disaster risks.

5. A description of the likely significant effects of the proposed project on the environment resulting from, inter alia:

- (a) the existence of the project;
- (b) the use of natural resources, in particular land, soil, water, biodiversity **including flora and fauna**, considering as far possible the availability of these resources also in the light of changing climatic conditions;
- (c) the emission of pollutants, noise, vibration, light, heat and radiation, the creation of nuisances, and the elimination of waste;
- (d) the risks to human health, cultural heritage or the environment (e.g. due to accidents or disasters) **reasonably regarded as characteristic to the nature of the project**;
- (e) the cumulation of effects with other **existing and/or approved** projects and activities, **to the extent situated in the**

geographical area likely to be affected and not yet constructed or operational, without being obliged to take other information than existing or publicly available information into account;

(f) the greenhouse gas emissions, including from land use, land use change and forestry;

(g) the technologies and the substances used;

(h) hydromorphological changes.

The description of the likely significant effects should cover the direct effects and any indirect, secondary, cumulative, transboundary, short-, medium- and long-term, permanent and temporary, positive and negative effects of the project. This description should take into account the environmental protection objectives established at EU or Member State level which are relevant to the project.

6. The description of the forecasting methods used to assess the effects on the environment referred to in point 5, as well as an account of the main uncertainties involved and their influence on the effect estimates and selection of the preferred alternative.

7. A description of the measures envisaged to prevent, reduce and, ***where possible***, offset any significant adverse effects on the environment referred to in point 5 and, where appropriate, of any proposed monitoring arrangements, including the preparation of a post-project analysis of the adverse effects on the environment. This description should explain the extent to which significant adverse effects are reduced or offset and should cover both the construction and operational phases.

8. An assessment of the natural and man-made disaster risks and risk of accidents to which the project could be vulnerable and, where appropriate, a description of the

(f) the greenhouse gas emissions, including from land use, land use change and forestry;

(g) the technologies and the substances used;

(h) hydromorphological changes.

The description of the likely significant effects should cover the direct effects and any indirect, secondary, cumulative, transboundary, short-, medium- and long-term, permanent and temporary, positive and negative effects of the project. This description should take into account the environmental protection objectives established at Union or Member State level which are relevant to the project.

6. The description of the forecasting methods used to assess the effects on the environment referred to in point 5, as well as an account of the main uncertainties involved and their influence on the effect estimates and selection of the preferred alternative.

7. A description of the measures envisaged to, ***as a priority***, prevent ***and*** reduce and, ***as a last resort***, offset any significant adverse effects on the environment referred to in point 5 and, where appropriate, of any proposed monitoring arrangements, including the preparation of a post-project analysis of the adverse effects on the environment. This description should explain the extent to which significant adverse effects are ***prevented***, reduced or offset and should cover both the construction and operational phases.

8. An assessment of the ***likely*** natural and man-made disaster risks and risk of accidents to which the project could be vulnerable and, where appropriate, a

measures envisaged to prevent such risks, as well as measures regarding preparedness for and response to emergencies (e.g. measures required under Directive *96/82/EC as amended*).

9. A non-technical summary of the information provided under the above headings.

10. An indication of any difficulties (technical deficiencies or lack of knowhow) encountered by the developer in compiling the required information and of the sources used for the descriptions and assessments made, as well as an account of the main uncertainties involved and their influence on the effect estimates and selection of the preferred alternative.

description of the measures envisaged to prevent such risks, as well as measures regarding preparedness for and response to emergencies (e.g. measures required under Directive *2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major-accident hazards involving dangerous substances, or requirements arising from other Union legislation or international conventions*).

9. A non-technical summary of the information provided under the above headings.

10. An indication of any difficulties (technical deficiencies or lack of knowhow) encountered by the developer in compiling the required information and of the sources used for the descriptions and assessments made, as well as an account of the main uncertainties involved and their influence on the effect estimates and selection of the preferred alternative.

EXPLANATORY STATEMENT

While apparently modest, Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (EIA Directive) is actually the 'jewel in the crown' of Union environmental policy. Around 200 types of project fall within its scope – from the building of bridges, ports, motorways and landfill sites to the intensive rearing of poultry or pigs¹.

The EIA Directive establishes the simple yet fundamental principle of 'informed decisions': before granting development consent for public or private projects that are likely to have an impact on the environment, the competent authorities of the Member States are legally required to acquire all the information necessary in order to carry out an environmental impact assessment.

The Directive 2011/92/EU currently in force, while being of an essentially procedural nature, aims to ensure the environmental sustainability of projects that fall within its scope. Those projects are divided into two categories: those for which, in view of their specific characteristics, an EIA is mandatory (Annex I) and those which have to undergo a project screening procedure (Annex II).

In its 28 years of application, this legislation has been relatively successful as regards the harmonisation of the principles of environmental assessment at Union level, but has undergone only three minor amendments², while the political, legal and technical background has evolved considerably. Meanwhile, a number of weaknesses have been identified, which have given rise to a large number of legal disputes, both nationally and before the EU Court of Justice. Lastly, in recent years, the Court has clarified the interpretation of a number of provisions, for instance by specifying that demolitions must fall within the definition of a 'project' (Case C-50/09).

To remedy the problems identified and to bring the text of the directive into line with the new policy priorities of the EU, such as the Soil Thematic Strategy, the Roadmap to a Resource-Efficient Europe and the Europe 2020 strategy, the Commission has drawn up this proposal for a revised EIA Directive.

In keeping with the EU's priorities, the proposal includes biodiversity, the use of natural resources, climate change and natural and man-made disaster risks among the factors in relation to which the impact of a project has to be assessed. The proposal also calls for projects to be considered by taking into account any cumulation with other projects and activities, to avoid the damaging practice of splitting the work into separate lots in order to reduce its environmental impact.

¹ According to the Commission's impact assessment, each year in the EU 15 000-26 000 EIAs, 27 000-33 800 screening procedures and 1370-3380 positive screenings take place.

² The original Directive 85/337/EEC was amended by Directives 97/11/EC, 2003/35/EC and 2009/31/EC and codified by Directive 2011/92/EU.

As regards the screening procedure, the proposal seeks to ensure that only those projects which have a significant impact on the environment are subject to EIA, on the basis of specific information which the developer must supply to the competent authority (Annex II.A). The Commission also proposes expanding the list of selection criteria on which screening decisions are based and fixing the time limit for the adoption of a decision at three months (which may be extended by another three months).

With regard to the quality of information, the Commission proposes that the competent authorities, in consultation with the developer, determine the scope and level of detail of the information to be included in the environmental report (the so-called scoping phase). In addition, the proposal introduces the mandatory assessment of reasonable alternatives to a project and a post-EIA monitoring requirement where a project has significant adverse effects on the environment.

As far as administrative simplification is concerned, with the aim of establishing a clear time-frame for all the stages of EIA, the Commission proposes establishing minimum and maximum periods of time for public consultation and for the final decision, and introducing an EIA 'one-stop shop' in the Member States, to coordinate the procedure with any environmental assessments required by other legislation, such as the directive on industrial emissions, the Water Framework Directive or the Habitats Directive.

Your rapporteur is convinced of the need to pursue a truly sustainable model of development throughout the Union and gives his full and firm support to the Commission proposal. The proposed amendments are thus essentially designed to enhance the proposal, by including some measures aiming to make it even more effective and easier to transpose into national legislation and to help it to achieve its environmental protection objectives more effectively. The key issues addressed in the proposed amendments are summarised below.

Public involvement

In compliance with the Aarhus Convention, the proposal seeks to strengthen the role of the public concerned at all stages of the procedure. Good governance calls for dialogue between all parties involved and a clear and transparent procedure that encourages the timely awareness of the public concerned that an important project might be executed. This potentially strengthens support for decisions taken and reduces the number and cost of the legal disputes that systematically occur in the Member States where there is no genuine consensus over a project.

Conflicts of interest

The credibility of the entire EIA procedure is undermined unless there are clear rules to prevent the serious issue of conflicts of interest. Your rapporteur has personally been able to note that, in some cases, in spite of the formal separation between competent authority and developer, in particular where the latter is a public entity, there is often an improper merging of the two parties, which adversely affects the objectivity of the judgment. The absolute independence of the competent authority from the developer must therefore be ensured.

Corrective action

Your rapporteur fully endorses the Commission's proposal with regard to the ex-post monitoring of projects that have significant adverse effects on the environment, but takes the view that it is absolutely necessary to supplement it with a requirement to take the appropriate corrective action where monitoring shows that the mitigation and compensation measures required for an authorised project are not effective.

Drawing up and verification of environmental reports

Your rapporteur is of the view, first and foremost, that it is vital to ensure that environmental reports are verified by experts who are totally independent and have appropriate technical competence in environmental matters. As regards the system of accreditation of experts proposed by the Commission, whilst agreeing with the aim of ensuring the quality of monitoring, your rapporteur believes that such a system would be extremely difficult for the Member States to implement and therefore proposes that it be abolished.

Shale gas

Your rapporteur considers it necessary, in accordance with the precautionary principle and as called for by Parliament in its resolution of 21 November 2012 on the environmental impacts of shale gas and shale oil extraction activities, to include so-called non-conventional hydrocarbons in Annex I to the Directive, so that the relevant exploration and extraction projects are systematically required to undergo EIA. The production thresholds laid down in the current Directive do not, in fact, take into account daily production levels of these gases and oils, which means that such projects are not subject to mandatory EIA.

* * *

Achieving a true 'green economy' also means ensuring the sustainability of projects to be completed in our territory, in addition to designing them and implementing them in accordance with their impact on resource efficiency, climate change and loss of biodiversity, in particular with regard to large infrastructure projects.

Adopting the new EIA Directive as soon as possible means following up words with deeds and equipping the European Union with an operational tool that is vital in order to meet the global challenges of the 21st century.

* * *

Your rapporteur has welcomed the suggestions received from the shadow rapporteurs and colleagues in Parliament. He and his staff have received the positions of: AK EUROPA, WKÖ, Justice and Environment, BUSINESSEUROPE, UEPC, EWEA, EDF, EDISON, OGP, EURELECTRIC and NEEIP and have had a series of meetings with representatives of the Lithuanian and Netherlands governments, the rapporteurs of the Committee of the Regions and the Economic and Social Committee, representatives of organisations such as Friends of the Earth Europe, Confindustria, ENEL, MEDEF, Birdlife International, EPF, Eurochambres, IMA-Europe and TERNA. Your rapporteur wishes to thank in particular Mr Matteo Ceruti,

lawyer, Mr Stefano Lenzi, of WWF Italy, and Mr Marco Stevanin. The rapporteur is solely responsible for the proposals that he has chosen to include in his draft report.

18.6.2013

OPINION OF THE COMMITTEE ON TRANSPORT AND TOURISM

for the Committee on the Environment, Public Health and Food Safety

on the proposal for a directive 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

(COM(2012)0628 – C7-0367/2012 – 2012/0297(COD))

Rapporteur: Joseph Cuschieri

SHORT JUSTIFICATION

Commission's proposal

Directive 2011/92/EU (EIA Directive) requires an environmental impact assessment of projects likely to have significant environmental effects prior to their authorisation. Although amended several times since its adoption in 1985, the Directive has not changed significantly enough to reflect ongoing changes in policy, legal and technical context. During the last 25 years the European Union has grown bigger and so have the scope and seriousness of environmental issues to be tackled as well as the number of major EU-scale infrastructure projects (e.g. transboundary projects in the field of energy or transport). To respond to these changes the proposal for amending Directive brings new important updates into the legislative framework by addressing shortcomings in screening procedure, quality and analysis of the environmental impact assessment and risks of inconsistencies within the assessment process. Last but not least, it leaves the possibility of not applying the Directive to projects having national defence or response to civil emergencies as their sole purposes.

Rapporteur's point of view

The rapporteur supports the changes in the Directive proposed by the Commission as he believes that, due to the transboundary nature of environmental issues (e.g. climate change, disaster risks) and of some of the projects, action at the European level is necessary to ensure a level playing field and to bring added value as compared to individual national actions. Nevertheless, he finds that certain aspects of the Directive could be further improved by a few minor adjustments. These include underlying the impact that the environmental assessment process can have on the protection of historical heritage or on tourism and recognising a

special nature of cross-border projects, so vital to the European transport policy, as opposed to projects having transboundary effects. In his view only by making this distinction it is possible to ensure maximum coordination of actions in order to meet often stringent deadlines and expectations of numerous public and private stakeholders. Finally, to make European legal framework more coherent, the Rapporteur proposes some minor alignments with the legislation on TEN-T guidelines.

These views are reflected by the following amendments:

AMENDMENTS

The Committee on Transport and Tourism calls on the Committee on the Environment, Public Health and Food Safety, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a directive Recital 21 a (new)

Text proposed by the Commission

Amendment

(21 a) All necessary measures should be taken to ensure that the projects are carried out in compliance with relevant Union and national rules and procedures, in particular with Union legislation on the environment, climate protection, safety, security, competition, state aid, public procurement, public health and accessibility.

Amendment 2

Proposal for a directive Recital 21 b (new)

Text proposed by the Commission

Amendment

(21 b) For cross-border projects the Member States and neighbouring countries involved should 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.

Amendment 3

Proposal for a directive Recital 22 a (new)

Text proposed by the Commission

Amendment

(22a) One of the objectives of the Århus Convention, which the Union has ratified and transposed into Union law, is to ensure the right of the public to participate in decision-making in environmental matters. Therefore, that participation, including participation by associations, organisations and groups, in particular non-governmental organisations promoting environmental protection, should continue to be fostered. Elements of this Directive should also be strengthened in cross-border transport projects, making use of existing structures for the development of transport corridors and of tools to identify the potential impact on the environment.

Amendment 4

Proposal for a directive Recital 24 a (new)

Text proposed by the Commission

Amendment

(24 a) Member States and other project promoters should ensure that assessments of cross border projects are carried out efficiently, avoiding unnecessary delays.

Amendment 5

Proposal for a directive Article 1 – point 1 – point b Directive 2011/92/EU Article 1 – paragraph 2 – point g a (new)

Text proposed by the Commission

Amendment

(g a) 'cross-border section' means the section which ensures the continuity of a project of common interest between the nearest urban nodes on both sides of the border of two Member States or between a Member State and a neighbouring country

Justification

In order to make this Directive more coherent with the Espoo convention and the new TEN-T regulation, the same wording and definitions are needed.

Amendment 6

Proposal for a directive Article 1 – paragraph 1 – point c Directive 2011/92/EU Article 1 – paragraph 3

Text proposed by the Commission

Amendment

3. Member States may decide, on a case-

3. Member States may decide, on a case-

by-case basis and if so provided under national law, not to apply this Directive to projects having as their sole purpose national defence or the response to civil emergencies, if they deem that such application would have an adverse effect on those purposes.

by-case basis and if so provided under national law, not to apply this Directive to projects having as their sole purpose national defence, the response to civil emergencies or ***protection of historical heritage as classified by the competent authorities of the Member State*** if they deem that such application would have an adverse effect on those purposes.

Justification

Historical heritage is an important part of collective identity and for this reason it should be possible for the projects aiming at protecting it to be exempted from the application of this Directive

Amendment 7

Proposal for a directive

Article 1 – point 2

Directive 2011/92/EU

Article 2 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Projects for which the obligation to carry out assessments of the effects on the environment arises simultaneously from this Directive and other Union legislation shall be subject to coordinated or joint procedures fulfilling the requirements of the relevant Union legislation.

Amendment

Projects, ***including those with transboundary effect***, for which the obligation to carry out assessments of the effects on the environment arises simultaneously from this Directive and other Union legislation shall be subject to coordinated or joint procedures fulfilling ***all*** the requirements of the relevant Union legislation.

Justification

In the TEN-T projects, the main corridors include key cross-border projects where the EIA has to be carried carefully fulfilling all the requirements of the existing Union legislation.

Amendment 8

Proposal for a directive

Article 1 – point 3

Directive 2011/92/EU

Article 3 – point b

Text proposed by the Commission

Amendment

(b) land, soil, water, air **and climate change**;

(b) land, soil, water **and** air;

Justification

(See amendment to Article 3 - point ea (new))

Amendment 9

Proposal for a directive

Article 1 – point 3

Directive 2011/92/EU

Article 3 - point c

Text proposed by the Commission

Amendment

(c) material assets, cultural heritage and the landscape

(c) material assets, cultural **and historical** heritage and the landscape;

Justification

(See amendment to Article 1 - paragraph 3)

Amendment 10

Proposal for a directive

Article 1 – point 3

Directive 2011/92/EU

Article 3 - point eb (new)

Text proposed by the Commission

Amendment

eb. tourism, when touristic activity has significant effects on the local and regional economy;

Justification

Implementation of certain projects can have a negative effect on the touristic activity which, in turn, can have a detrimental effect on the economy of Member States, especially where the economy of a Member State depends largely on tourism.

Amendment 11

Proposal for a directive

Article 1 – point 4 – point a

Directive 2011/92/EU

Article 4 – paragraph 3

Text proposed by the Commission

For projects listed in Annex II, the developer shall provide information on the characteristics of the project, its potential impact on the environment and the measures envisaged in order to avoid and reduce significant effects. The detailed list of information to be provided is specified in Annex II.A."

Amendment

For projects listed in Annex II, ***submitted for case-by-case examination under Article 4(2)***, the developer shall provide information on the characteristics of the project, its potential impact on the environment and the measures envisaged in order to avoid and reduce significant effects. The detailed list of information to be provided is specified in Annex II.A

Amendment 12

Proposal for a directive

Article 1 – point 5

Directive 2011/92/EU

Article 5 – paragraph 3 – subparagraph 1 – point e

Text proposed by the Commission

(e) the ***environmental*** features referred to in Article 3 likely to be significantly affected;

Amendment

(e) the features referred to in Article 3 likely to be significantly affected;

Justification

The scope and level of detail of the information in the environmental report should not be limited only to environmental features.

Amendment 13

Proposal for a directive

Article 1 – point 5

Directive 2011/92/EU
Article 5 a (new)

Text proposed by the Commission

Amendment

The following Article 5a (new) is added:

(5 a) For cross-border projects the 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.

In the case of European transport network transport projects, the potential impact on the Natura 2000 network shall be identified using the Commission's TENTec system and Natura 2000 software and possible alternatives.

Justification

In the case of transport infrastructure projects, joint use should be made of the RTE-T and Natura 2000 IT tools to avoid potential problems at an early stage.

Amendment 14

Proposal for a directive

Article 1 – paragraph 1 – point 7

Directive 2011/92/EU

Article 7 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

In the case of cross-border projects of common interest in the field of transport included in one of the corridors set out in Annex I of the Regulation establishing the Connecting Europe Facility, Member States shall be involved in coordinating the work of the public consultations. The

coordinator shall ensure that an extensive public consultation process takes place with all stakeholders and civil society during the planning of new infrastructure. In any event, the coordinator may propose ways of developing the corridor plan and implementing it in a balanced manner.

Justification

Use should be made of those coordinating Trans-European Transport Network corridors in public consultation processes so as to identify at an early stage any potential problems that may arise, bearing in mind the added difficulties involved in cross-border projects.

Amendment 15

Proposal for a directive

Article 1 – point 8

Directive 2011/92/EU

Article 8 – paragraph 1 – subparagraph 1 – introductory part

Text proposed by the Commission

The results of consultations and the information gathered pursuant to Articles 5, 6 and 7 shall be ***taken into consideration*** in the development consent procedure. To this end, the decision to grant development consent shall contain the following information:

Amendment

The results of consultations and the information gathered pursuant to Articles 5, 6 and 7 shall be ***given due account*** in the development consent procedure. To this end, the decision to grant development consent shall contain the following information:

Justification

Article 6(8) of the Aarhus Convention requires "due account" to be taken of the outcome of the public participation procedure: the less compelling requirement under the current Directive to ensure that the decision of the competent authority "takes into consideration" the public participation procedure therefore is not consistent with the requirements of the Aarhus Convention.

Amendment 16

Proposal for a directive

Article 1 – point 8

Directive 2011/92/EU

Article 8 – paragraph 1 – subparagraph 1 – point c

Text proposed by the Commission

a summary of the **comments received** pursuant to Articles 6 and 7;

Amendment

a summary of the **issues raised** pursuant to Articles 6 and 7;

Justification

Sub-paragraphs (c) and (d) will deliver the necessary information to inform the developer and the public about how the findings of the environmental assessment (undertaken by the developer), consultation responses and other relevant matters have led the competent authority to their decision.

Amendment 17

Proposal for a directive

Article 1 – point 8

Directive 2011/92/EU

Article 8 – paragraph 2 – subparagraph 2

Text proposed by the Commission

If the competent authority decides to grant development consent, it shall ensure that the development consent includes measures to monitor the significant adverse environmental effects, in order to assess the implementation and the expected effectiveness of mitigation and compensation measures, and to identify any unforeseeable adverse effects.

Amendment

If the competent authority decides to grant development consent, it shall ensure that the development consent includes measures to monitor the significant adverse environmental effects **of both construction and operational phases**, in order to assess the implementation and the expected effectiveness of mitigation and compensation measures, and to identify any unforeseeable adverse effects **and to facilitate corrective action**.

Justification

To ensure that monitoring covers the construction and operational phases, that are very relevant in implementing transport projects.

Amendment 18

Proposal for a directive

Article 1 – point 8

Directive 2011/92/EU

Article 8 – paragraph 2 – subparagraph 3

Text proposed by the Commission

The type of parameters to be monitored and the duration of the monitoring shall be proportionate to the nature, location and size of the proposed project and the significance of its environmental effects.

Amendment

The type of parameters to be monitored and the duration of the monitoring shall be proportionate to the nature, location and size of the proposed project and the significance of its environmental effects.
These findings shall be submitted to the competent authority and made publicly available.

Justification

To ensure that monitoring covers the construction and operational phases, is submitted to the competent authority and the results are made publicly available

Amendment 19

Proposal for a directive

Article 1 – point 9 – point b

Directive 2011/92/EU

Article 9 – paragraph 3

Text proposed by the Commission

Member States ***may also decide to*** make available to the public the information referred to in paragraph 1, when the competent authority concludes its environmental impact assessment of the project.

Amendment

Member States ***shall*** make available to the public the information referred to in paragraph 1, when the competent authority concludes its environmental impact assessment of the project.

Justification

To be consistent with par. 1 of art 9

Amendment 20

Proposal for a directive

Article 1 – point 11

Directive 2011/92/EU

Article 12 a (new)

Text proposed by the Commission

The Commission shall be empowered to adopt delegated acts, in accordance with Article 12b, concerning the selection criteria listed in Annex III and the information referred to in Annexes II.A and IV, in order to adapt them to scientific and technical progress.

Amendment

The Commission shall be empowered to adopt delegated acts, in accordance with Article 12b, concerning the ***detailing and not the supplementation*** of the selection criteria listed in Annex III and the information referred to in Annexes II.A and IV, in order to adapt them to scientific and technical progress

Amendment 21

Proposal for a directive

Article 1 – paragraph 1 – point 11

Directive 2011/92/EU

Article 12 b – paragraph 2 (new)

Text proposed by the Commission

The delegation of power referred to in Article 12a shall be conferred on the Commission for ***an indeterminate*** period of ***time*** from the [OPOCE please introduce date of the entry into force of this Directive].

Amendment

The delegation of power referred to in Article 12a shall be conferred on the Commission for period of ***five years*** from the [OPOCE please introduce date of the entry into force of this Directive]. ***The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each***

period.

Amendment 22

Proposal for a directive

Annex 1 – point 1

Directive 2011/92/EU

Annexe II a – point 3 – subpoint b

Text proposed by the Commission

the use of natural resources, in particular soil, land, water, and biodiversity, including hydromorphological changes.

Amendment

the use of natural resources, in particular soil, land, water, ***air*** and biodiversity, including hydromorphological changes.

Justification

Air is to be included as a natural resource too

Amendment 23

Proposal for a directive

Annex 1 – point 2

Directive 2011/92/EU

Annex III – paragraph 1 – point c

Text proposed by the Commission

the use of natural resources, in particular land, soil, water, and biodiversity, including hydromorphological changes;

Amendment

the use of natural resources, in particular land, soil, water, ***air*** and biodiversity, including hydromorphological changes;

Justification

Air is to be included as a natural resource too

Amendment 24

Proposal for a directive

Annex 1 – point 2
Directive 2011/92/EU
Annex III– paragraph 1 – point i

Text proposed by the Commission

the risks to human health (e.g. due to water contamination or air pollution);

Amendment

the risks to human health (e.g. due to water contamination or air pollution ***and noise including vibrations***);

Amendment 25

Proposal for a directive
Annex 1 – point 2
Directive 2011/92/EU
Annex III – paragraph 3 – point b

Text proposed by the Commission

the nature of the impact;

Amendment

the nature of the impact, ***including the number of jobs created***;

PROCEDURE

Title	Amendment of Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment
References	COM(2012)0628 – C7-0367/2012 – 2012/0297(COD)
Committee responsible Date announced in plenary	ENVI 19.11.2012
Opinion by Date announced in plenary	TRAN 18.4.2013
Rapporteur Date appointed	Joseph Cuschieri 9.4.2013
Discussed in committee	29.5.2013
Date adopted	18.6.2013
Result of final vote	+: 34 -: 4 0: 0
Members present for the final vote	Magdi Cristiano Allam, Georges Bach, Izaskun Bilbao Barandica, Philip Bradbourn, Antonio Cancian, Michael Cramer, Joseph Cuschieri, Luis de Grandes Pascual, Saïd El Khadraoui, Ismail Ertug, Carlo Fidanza, Knut Fleckenstein, Jacqueline Foster, Mathieu Grosch, Jim Higgins, Dieter-Lebrecht Koch, Georgios Koumoutsakos, Bogusław Liberadzki, Eva Lichtenberger, Gesine Meissner, Mike Nattrass, Hubert Pirker, Dominique Riquet, Petri Sarvamaa, David-Maria Sassoli, Brian Simpson, Keith Taylor, Silvia-Adriana Țicău, Giommara Uggias, Dominique Vlasto, Artur Zasada, Roberts Zīle
Substitute(s) present for the final vote	Phil Bennion, Spyros Danellis, Eider Gardiazábal Rubial, Gilles Pargneaux, Alfreds Rubiks, Sabine Wils

27.6.2013

OPINION OF THE COMMITTEE ON PETITIONS

for the Committee on the Environment, Public Health and Food Safety

on the proposal for a directive 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
(COM(2012)0628 – C7-0367/2012 - 2012/0297(COD))

Rapporteur: Nikolaos Chountis

SHORT JUSTIFICATION

The Petitions Committee has, over the years, received a very large number of petitions which concern the weaknesses and widespread discrepancies in the application of the existing EIA Directive. Many of these petitions have been incorporated by the Commission into their own infringement procedures launched against Member States who failed to respect the current provisions. The Committee therefore welcomes the opportunity to place the many complaints received and assessed to good use by using them as a basis for its work in trying to provide a clearer and more effective Directive for the future.

The EIA Directive has been a crucial tool in the protection of Europe's environment for many years, but is not yet well implemented in all Member States nor fully applied to all local projects. There are quite a few areas which require some reinforcement, notably as regards the involvement of the public during all project phases, an increased degree of transparency, the necessity of independent and objective reporting, clearer provisions concerning the protection of national heritage, a clear mechanism, which prefers the most environmentally friendly variant, legal protection with suspensive effect, as well as a clear ban on prohibiting serious environmental impacts, and above all a strengthened prioritisation of environmental imperatives.

It is indeed too often the case that powerful financial interests involved in large infrastructure projects unduly influence political decision making at local, regional and national level at the expense of the environment. In this context, a reinforcement of the EIA Directive is essential

in order to guarantee to European citizens that their rights are fully respected and that the European Union is able to meet its commitments, which citizens expect, in terms of improving bio-diversity, preventing the onslaught of dramatic changes to the climate, and ensuring a better balance between infrastructure improvement and the demands of nature. The EIA Directive has a natural linkage with other Directives notably the Birds and Habitats Directive as well as with the Directives related to waste management. The annexes need to be fully re-assessed with regard to priorities in these areas in particular.

The draftsman welcomes the holistic approach of the EIA as which in the future would include other related policy areas such as biodiversity and climate change. For clarity and strengthening reasons, he proposes a number of amendments so as to ensure the highest level of environmental protection:

- deletion of derogations due to specific acts of national legislation;
- the public should have the right to participate in the screening and scoping procedures;
- screening and scoping decisions should be subject to direct and timely judicial review;
- whole projects must be subject to EIA (not part projects known as "salami-slicing");
- mandatory use of independent "accredited and technically competent experts" either by the developer or the competent authority;
- ensure that monitoring covers the construction and operational phases, it is submitted to the competent authority and the results are made publicly available;
- the developer shall be required to take corrective action, where monitoring indicates that there are unforeseen adverse impacts.

A successful revision of the existing EIA must bear in mind the need to ensure that the regulation and effective assessment of the environmental impact and the administrative costs of this should be seen as an investment in the future of our environment and in the health and well-being of European citizens.

AMENDMENTS

The Committee on Petitions calls on the Committee on the Environment, Public Health and Food Safety, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a directive Recital 1

Text proposed by the Commission

(1) Directive 2011/92/EU has harmonised the principles for the environmental assessment of projects by introducing minimum requirements (with regard to the type of projects subject to assessment, the main obligations of developers, the content of the assessment and the participation of the competent authorities and the public), and contributes to a high level of protection of the environment and human health.

Amendment

(1) Directive 2011/92/EU has harmonised the principles for the environmental assessment of projects by introducing minimum requirements (with regard to the type of projects subject to assessment, the main obligations of developers, the content of the assessment and the participation of the competent authorities and the public), and contributes to a high level of protection of the environment and human health. ***The Member States may lay down more stringent rules to protect the environment and human health.***

Amendment 2

Proposal for a directive Recital 3

Text proposed by the Commission

(3) It is necessary to amend Directive 2011/92/EU in order to strengthen the quality of the environmental assessment procedure, streamline the various steps of

Amendment

(3) It is necessary to amend Directive 2011/92/EU in order to strengthen the quality of the environmental assessment procedure, streamline the various steps of

the procedure and 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 procedure and 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 ultimate purpose of amending this Directive is to bring about more effective implementation at Member State level.***

In many cases administrative procedures became too complicated and extended, causing delays and creating additional risks for the protection of the environment. In this respect, simplification and harmonization of the proceedings shall be one of the aims of the Directive. The suitability of creating a one-stop shop is to be taken into account with a view to allow coordinated assessment or joint procedures when several EIA's are required, for instance in cases of cross-border projects, as well as to define more specific criteria mandatory assessments.

Amendment 3

Proposal for a directive Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) In the case of projects which may have a cross-border impact on the environment, the Member States involved should set up a joint one-stop shop where they should be represented on the basis of parity, which should be responsible for all procedural steps. For the final project approval, the consent of all Member States concerned must be obtained.

Amendment 4

Proposal for a directive Recital 3 b (new)

Text proposed by the Commission

Amendment

(3b) The revised Directive 2011/92/EU should also ensure that environmental protection is improved, resource efficiency increased and sustainable growth supported in Europe. To this end, it is necessary to simplify and harmonise the prescribed procedures.

Amendment 5

Proposal for a directive Recital 4

Text proposed by the Commission

Amendment

(4) Over the last decade, environmental issues, such as resource efficiency, biodiversity, climate change, and disaster risks, have become more important in policy making ***and*** should therefore also constitute ***critical*** elements in assessment and decision-making processes, especially for infrastructure projects.

(4) Over the last decade, environmental issues, such as resource efficiency ***and sustainability***, biodiversity ***protection***, ***land use***, climate change, and ***natural and man-made*** disaster risks, have become more important in policy making. ***They*** should therefore also constitute ***important*** elements in assessment and decision-making processes ***for any public or private project likely to have a significant impact on the environment***, especially for infrastructure projects.

As the Commission has not determined guidelines for the application of the Directive on conservation of Historical and Cultural Heritage, the Commission shall propose a list of criteria and indications with a view to a better

implementation of the Directive.

Amendment 6

**Proposal for a directive
Recital 4 a (new)**

Text proposed by the Commission

Amendment

(4a) Stipulating that greater account must be taken of environmental criteria in all projects may also prove counter-productive if it serves to add to the complexity of the procedures involved and to lengthen the time needed to authorise and validate each stage. This may increase costs and may even in itself come to pose a threat to the environment if infrastructure projects take a very long time to complete.

Amendment 7

**Proposal for a directive
Recital 4 b (new)**

Text proposed by the Commission

Amendment

(4b) Environmental issues surrounding infrastructure projects must not divert attention from the fact that any project will inevitably have an impact on the environment and that the focus must be on the balance between the value of a project and its environmental impact.

Amendment 8

Proposal for a directive Recital 5

Text proposed by the Commission

(5) In its Communication entitled ‘Roadmap to a Resource Efficient Europe’, the Commission committed itself to including broader resource efficiency considerations in the context of the revision of Directive 2011/92/EU.

Amendment

(5) In its Communication entitled ‘Roadmap to a Resource Efficient Europe’, the Commission committed itself to including broader resource efficiency **and sustainability** considerations in the context of the revision of Directive 2011/92/EU.

Amendment 9

Proposal for a directive Recital 9

Text proposed by the Commission

(9) Climate change will continue to **cause damage** to the environment and compromise economic development. Accordingly, the environmental, social and economic resilience of the Union should be promoted so as to deal with climate change throughout the Union’s territory in an efficient manner. Climate change adaptation and mitigation responses need to be addressed across many of the sectors of Union legislation.

Amendment

(9) Climate change will continue to **pose a threat** to the environment and compromise **the predictability of** economic development. Accordingly, the environmental, social and economic resilience of the Union should be promoted so as to deal with climate change throughout the Union’s territory in an efficient manner. Climate change adaptation and mitigation responses need to be addressed **now** across many of the sectors of Union legislation.

Amendment 10

Proposal for a directive Recital 13

Text proposed by the Commission

(13) Experience has shown that in cases of civil emergency compliance with the provisions of Directive 2011/92/EU may have adverse effects, and provision should therefore be made to authorise Member States not to apply that Directive in appropriate cases.

Amendment

(13) Experience has shown that in cases of civil emergency compliance with the provisions of Directive 2011/92/EU may have adverse effects, and provision should therefore be made, ***in exceptional cases***, to authorise Member States not to apply that Directive ***to projects having as their sole purpose the response to civil emergencies, under the condition that appropriate information is timely supplied to the Commission justifying the choice, the public concerned, and provided that any other feasible alternatives have been considered. In cases of cross-border projects, the Commission should, where and when appropriate and possible, play a more pro-active and facilitating role.***

Amendment 11

Proposal for a directive Recital 16

Text proposed by the Commission

(16) When determining whether significant environmental effects are likely to be caused, the competent authorities ***should identify*** the most relevant criteria to be considered and use the additional information that may be available following other assessments required by Union legislation in order to apply the screening procedure effectively. In this

Amendment

(16) When determining whether significant environmental effects are likely to be caused, the competent authorities ***must define clearly and strictly*** the most relevant criteria to be considered and use the additional information that may be available following other assessments required by Union legislation in order to apply the screening procedure effectively

regard, it is appropriate to specify the content of the screening decision, in particular where no environmental assessment is required.

and transparently. In this regard, it is appropriate to specify the content of the screening decision, in particular where no environmental assessment is required.

Amendment 12

Proposal for a directive

Recital 17

Text proposed by the Commission

(17) The competent authorities should be required to determine the scope and level of detail of the environmental information to be submitted in the form of an environmental report (scoping). In order to improve the quality of the assessment and streamline the decision-making process, it is important to specify at Union level the categories of information on which the competent authorities should make that determination.

Amendment

(17) The competent authorities should be required to determine the scope and level of detail of the environmental information to be submitted in the form of an environmental report (scoping). In order to improve the quality of the assessment, *the simplification of the procedures* and streamline the decision-making process, it is important to specify at Union level the categories of information on which the competent authorities should make that determination.

Amendment 13

Proposal for a directive

Recital 18

Text proposed by the Commission

(18) The environmental report of a project to be provided by the developer should include an assessment of reasonable alternatives relevant to the proposed project, including the likely evolution of the existing state of the environment without implementation of the project

Amendment

(18) The environmental report of a project to be provided by the developer should include an assessment of *all* reasonable alternatives relevant to the proposed project, including the likely evolution of the existing state of the environment without implementation of the project

(baseline scenario), as a means to improve quality of the assessment process and to allow integrating environmental considerations at an early stage in the project's design.

(baseline scenario), as a means to improve quality of the assessment process and to allow integrating environmental considerations at an early stage in the project's design.

Amendment 14

Proposal for a directive Recital 20

Text proposed by the Commission

(20) With a view to ensuring transparency and accountability, the competent authority should be required to substantiate its decision to grant development consent in respect of a project, indicating that it has taken into consideration the results of the consultations carried out and the relevant information gathered.

Amendment

(20) With a view to ensuring transparency and accountability, the competent authority should be required to substantiate ***comprehensively and in detail*** its decision to grant development consent in respect of a project, indicating that it has taken into consideration the results of the consultations carried out ***with the public concerned*** and ***all*** the relevant information gathered. ***Should that condition not be met, the public concerned should have the right to appeal against the decision.***

Amendment 15

Proposal for a directive Recital 21

Text proposed by the Commission

(21) It is appropriate to establish common minimum requirements for the monitoring of the significant adverse effects of the construction and operation of projects to ensure a common approach in all Member States and to ensure that, after the

Amendment

(21) It is appropriate to establish common minimum requirements for the monitoring of the significant adverse effects of the construction and operation of projects to ensure a common approach in all Member States and to ensure that, after the

implementation of mitigation and compensation measures, no impacts exceed those initially predicted. Such monitoring should not duplicate or add to monitoring required pursuant to other Union legislation.

implementation of mitigation and compensation measures, no impacts exceed those initially predicted. Such monitoring should not duplicate or add to monitoring required pursuant to other Union legislation. ***Where monitoring indicates that there are unforeseen adverse impacts, provision should be made for appropriate corrective action.***

Amendment 16

Proposal for a directive Recital 22 a (new)

Text proposed by the Commission

Amendment

(22a) Public involvement, according to Aarhus Convention, in decision-making from an early stage is critical to ensure that the decision-maker will take account of opinions and concerns which may be relevant to those decisions, thereby increasing the accountability and transparency on the decision making process, improving the substantive quality of decisions and contributing to public awareness of environmental issues.

Amendment 17

Proposal for a directive Recital 28

Text proposed by the Commission

Amendment

(28) Since the objective of this Directive, namely to ensure a high level of protection of the environment and of human health, through the establishment of minimum requirements for the environmental

(28) Since the objective of this Directive, namely to ensure a high level of protection of the environment, ***the quality of life*** and of human health, through the establishment of minimum requirements for the

assessment of projects, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scope, seriousness and transboundary nature of the environmental issues to be addressed, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. ***In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.***

environmental assessment of projects, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scope, seriousness and transboundary nature of the environmental issues to be addressed, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union.

Amendment 18

Proposal for a directive

Article 1 – paragraph 1 – point 1 – point a

Directive 2011/92/EU

Article 1, paragraph 2, point a, indent 1

Text proposed by the Commission

the execution of construction or demolition works, or of ***other*** installations or schemes,

Amendment

- the execution of construction or ***of other installations or schemes,***

- ***the*** demolition works ***of construction*** or of installations or schemes,

- ***other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources.***

Amendment 19

Proposal for a directive

Article 1 – paragraph 1 – point 1 – point b – introductory part

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Directive 2011/92/EU
Article 1 – paragraph 2 – points f a and f b (new)

Text proposed by the Commission

(b) in paragraph 2, the following **definition** is added:

Amendment 20

Proposal for a directive
Article 1 – point 1 – point b

Directive 2011/92/EU
Article 1 – paragraph 2 – point g a (new)

Text proposed by the Commission

Amendment

(b) in paragraph 2, the following **definitions are** added:

Amendment

"(ga)"biodiversity" includes all species of flora and fauna and their habitats and means the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems."

Amendment 21

Proposal for a directive
Article 1 – point 1 – point b

Directive 2011/92/EU
Article 1 – paragraph 2 – point g b (new)

Text proposed by the Commission

Amendment

"(gb)"corrective action" means further mitigation and/or compensation measures that may be undertaken by the developer to redress unforeseen adverse effects or any net biodiversity loss identified by project implementation, such as may arise

from deficiencies in mitigation of impacts arising from project construction or operation, for which development consent has already been granted."

Amendment 22

Proposal for a directive

Article 1 – paragraph 1 – point 1 – point b

Directive 2011/92/EU

Article 1 – paragraph 2 – point f a (new)

Text proposed by the Commission

Amendment

'independent' means capable of the exercise of objective and comprehensive technical/scientific evaluation, free of any conflict of interest, either real, perceived or apparent, in relation to the competent authority, the developer and/or the national, regional or local authorities.

Amendment 23

Proposal for a directive

Article 1 – paragraph 1 – point 1 – point b

Directive 2011/92/EU

Article 1 – paragraph 2 – point f b (new)

Text proposed by the Commission

Amendment

'joint procedures': under the Joint Procedure the competent authority shall issue one environmental impact assessment, integrating the assessments of one or more authorities without prejudice to other provisions of other relevant Union legislation.

Amendment 24

Proposal for a directive

Article 1 – paragraph 1 – point 1 – point b – point 1 (new) Directive 2011/92/EU

Article 1 – paragraph 2 – point f c (new)

Text proposed by the Commission

Amendment

'Visual Impact Assessment': Visual impact is defined as a change in the appearance of the built or natural landscape and urban areas as a result of development which can be positive (improvement) or negative (detraction). Visual impact Assessment also covers the demolition of constructions that are protected or those with a strategic role in the traditional image of a place or a landscape. It shall cover the evident change of geological topography and any other obstacle such as buildings or walls that limit the view of nature as well as the landscape's harmony. Visual impact is assessed largely by qualitative judgements, concerned with the human appreciation and interaction with landscape and the value this gives to a place (genius loci).

Amendment 25

Proposal for a directive

Article 1 – paragraph 1 – point 1 – point b

Directive 2011/92/EU

Article 1 – paragraph 2 – point f d (new)

Text proposed by the Commission

Amendment

'simplification' means the reduction of forms, the creation of joint procedures and coordination tools in order to integrate the assessments made by the concerned authorities. Simplification also means to establish shared criteria, shorten deadlines for submitting reports and to strengthen objective and scientific evaluations.

Amendment 26

Proposal for a directive

Article 1 – point 1 – point c

Directive 2011/92/EU

Article 1 – paragraph 3

Text proposed by the Commission

Amendment

"3. Member States may decide, on a case-by-case basis and if so provided under national law, not to apply this Directive to projects having as their sole purpose national defence or the response to civil emergencies, if they deem that such application would have an adverse effect on those purposes."

"3. Member States may decide, on a case-by-case basis and if so provided under national law, not to apply this Directive to projects having as their sole purpose national defence or the response to civil emergencies, if they deem that such application would have an adverse effect on those purposes, ***provided that they have properly evaluated any other feasible alternatives and justify the final choice to the Commission.***"

Amendment 27

Proposal for a directive

Article 1 – paragraph 1 – point 2 – introductory part

Directive 2011/92/EU

Article 2 – paragraphs 3 and 4

PE508.221v02-00

106/132

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Text proposed by the Commission

(2) In Article 2, **paragraph 3 is** replaced by the following:

Amendment

(2) In Article 2, **paragraphs 3 and 4 are** replaced by the following:

Amendment 28

Proposal for a directive

Article 1 – point 2

Directive 2011/92/EU

Article 2 – paragraph 3

Text proposed by the Commission

"3. Projects for which the obligation to carry out assessments of the effects on the environment arises simultaneously from this Directive and other Union legislation shall be subject to coordinated or joint procedures fulfilling the requirements of the relevant Union legislation.

Amendment

"3. Projects, **including those with transboundary effect**, for which the obligation to carry out assessments of the effects on the environment arises simultaneously from this Directive and other Union legislation shall be subject to coordinated or joint procedures fulfilling **all** the requirements of the relevant Union legislation. **The most stringent legislation shall apply.**

Amendment 29

Proposal for a directive

Article 1 – point 3

Directive 2011/92/EU

Article 3 – points a, b, c, ca and d

Text proposed by the Commission

(a) population, human health, and biodiversity, with particular attention to species and habitats protected under Council Directive 92/43/EEC(*) and Directive 2009/147/EC of the European Parliament and of the Council(**);

Amendment

(a) population, human health, and biodiversity, with particular attention to species and habitats protected under Council Directive 92/43/EEC(*) and Directive 2009/147/EC of the European Parliament and of the Council(**), **and the**

Parliament and of the Council(**);

(b) land, soil, water, air and climate **change**;

(c) material assets, **cultural heritage** and the landscape;

(d) the interaction between the factors referred to in points (a), (b) and (c);

desirability of avoiding any loss of biodiversity;

(b) land, soil, water, air and climate;

(c) material assets and the landscape;

(ca) cultural heritage sites in accordance with Article 3, paragraph 3, subparagraph 4 TEU;

(d) the interaction between the factors referred to in points (a), (b), (c) and ***(ca) and the cumulative and cross-border effects of these factors;***

Amendment 30

Proposal for a directive

Article 1 – point 4 – point -a (new)

Directive 2011/92/EU

Article 4 – paragraph 2

Text proposed by the Commission

Amendment

(-a) paragraph 2 is amended as follows:

"2. Subject to Article 2(4), for projects listed in Annex II, Member States shall determine, under a screening procedure, whether the project shall be made subject to an assessment in accordance with Articles 5 to 10.

The developer, for projects listed in Annex II, may opt to make their project subject to an assessment in accordance with Articles 5 to 10.

Member States shall make that determination through:

(a) a case-by-case examination;

or

(b) thresholds or criteria set by the Member State.

2a. In setting the thresholds and criteria referred to in paragraph 2, the Member States shall endeavour to set flexible minimum thresholds and criteria so as not to exclude any public or private project that may have a significant adverse impact on the environment; Where (b) applies, the public must be consulted in setting thresholds or criteria."

The competent authority may opt to determine that a project listed in Annex II shall not be made subject to an assessment in accordance with Articles 5 to 10 only where it is convinced as to the absence of likely significant adverse effects of the project on the environment."

Amendment 31

Proposal for a directive
Article 1 – point 4 – point a
Directive 2011/92/EU
Article 4 – paragraph 3

Text proposed by the Commission

"3. For projects listed in Annex II, the developer shall provide information on the characteristics of the project, its potential impact on the environment and the measures envisaged in order to avoid and reduce significant effects. The detailed list of information to be provided is specified in Annex II.A."

Amendment

"3. For projects listed in Annex II, ***with the exception of projects which do not meet or exceed a relevant threshold or criterion set by the Member State under paragraph 2(b)***, the developer shall provide information on the characteristics of the project ***and*** its potential ***significant adverse*** impact on the environment. The detailed list of information to be provided is specified in Annex II.A. ***The information shall be made available to the***

public prior to the determination made pursuant to paragraph 2."

Amendment 32

Proposal for a directive

Article 1 – paragraph 1 – point 4 – point a

Directive 2011/92/EU

Article 4 – paragraph 4

Text proposed by the Commission

4. *When a case-by-case examination is carried out or thresholds or criteria are set for the purpose of paragraph 2*, the competent authority shall take account of selection criteria related to the characteristics and location of the project and its potential impact on the environment. The detailed list of selection criteria to be used is specified in Annex III.“

Amendment

4. *For projects listed in Annex II*, the competent authority shall take account of selection criteria related to the characteristics and location of the project and its potential impact on the environment. The detailed list of selection criteria to be used is specified in Annex III.

Amendment 33

Proposal for a directive

Article 1 – point 4 – point b

Directive 2011/92/EU

Article 4 – paragraph 5

Text proposed by the Commission

"5. The competent authority shall make its decision pursuant to paragraph 2, on the basis of the information provided by the developer and taking into account, where relevant, the results of studies, preliminary verifications or assessments of the effects on the environment arising from other Union legislation. The decision pursuant to paragraph 2 shall:

Amendment

"5. The competent authority shall make its *determination* pursuant to paragraph 2, *taking into account any* information provided by the developer *under paragraph 3* and taking into account, where relevant, the results of studies, preliminary verifications or assessments of the effects on the environment arising from other Union legislation. *Where the*

paragraph 2 shall:

competent authority determines that no environmental impact assessment need to be carried out pursuant to Articles 5 to 10 on grounds that the project does not meet or exceed a relevant threshold or criterion set by the Member State under paragraph 2(b) then such determination shall be made available to the public. Otherwise, the determination pursuant to paragraph 2 shall:

Amendment 34

Proposal for a directive

Article 1 – paragraph 1 – point 4 – point b

Directive 2011/92/EU

Article 4 – paragraph 6

Text proposed by the Commission

6. The competent authority shall make its decision pursuant to paragraph 2 within three months from the request for development consent and provided that the developer has submitted all the requisite information. Depending on the nature, complexity, location and size of the proposed project, the competent authority may extend that deadline by *a further* 3 months; in that case, the competent authority shall inform the developer of the reasons justifying the extension and of the date when its determination is expected.

Amendment

6. The competent authority shall make its decision pursuant to paragraph 2 within three months from the request for development consent and provided that the developer has submitted all the requisite information. Depending on the nature, complexity, location and size of the proposed project, the competent authority may extend that deadline by *up to* 3 months; in that case, the competent authority shall inform the developer of the reasons justifying the extension and of the date when its determination is expected.

Amendment 35

Proposal for a directive

Article 1 – paragraph 1 – point 5

Directive 2011/92/EU
Article 5 – paragraph 1

Text proposed by the Commission

"1. Where an environmental impact assessment must be carried out in accordance with Articles 5 to 10, the developer shall prepare an environmental report. The environmental report shall be based on the determination pursuant to paragraph 2 of this Article and include the information that may reasonably be required for making informed decisions on the environmental impacts of the proposed project, taking into account current knowledge and methods of assessment, the characteristics, technical capacity and location of the project, the characteristics of the potential impact, alternatives to the proposed project and the extent to which certain matters (including the evaluation of alternatives) are more appropriately assessed at different levels including the planning level, or on the basis of other assessment requirements. The detailed list of information to be provided in the environmental report is specified in Annex IV.

Amendment

"1. Where an environmental impact assessment must be carried out in accordance with Articles 5 to 10, the developer shall ***make use of the services of an accredited independent expert, as defined in Article 1(2)(fa), to*** prepare an environmental report. The environmental report shall be based on the determination pursuant to paragraph 2 of this Article and include the information that may reasonably be required for making informed decisions on the environmental impacts of the proposed project ***including a visual impact assessment when relevant,*** taking into account current knowledge and methods of assessment, the characteristics, technical capacity and location of the project, the characteristics of the potential impact and the alternatives to the proposed project. The detailed list of information to be provided in the environmental report is specified in Annex IV.

Amendment 36

**Proposal for a directive
Article 1 – point 5**

Directive 2011/92/EU
Article 5 – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. The competent authority, after having consulted the authorities referred to in Article 6(1) and the developer, shall

Amendment

2. The competent authority, after having consulted the authorities referred to in Article 6(1) the developer ***and the public***

determine the scope and level of detail of the information to be included by the developer in the environmental report, in accordance with paragraph 1 of this Article. In particular, it shall determine:

concerned, shall determine the scope and level of detail of the information *as provided in Annex IV* to be included by the developer in the environmental report, in accordance with paragraph 1 of this Article, *if the operator so requests*. In particular, it shall determine:

Amendment 37

Proposal for a directive

Article 1 – point 5

Directive 2011/92/EU

Article 5 – paragraph 2 – subparagraph 2

Text proposed by the Commission

The competent authority *may also seek assistance from* accredited *and* technically competent experts referred to in paragraph 3 of this Article. Subsequent requests to the developer for additional information *may* only be made if these are justified by new circumstances *and duly explained by the competent authority*.

Amendment

The competent authority *must ensure that the report has been drafted or verified by* accredited, *independent* and technically competent experts referred to in paragraph 3 of this Article. Subsequent requests to the developer for additional information *can* be made if these are justified by new circumstances.

Amendment 38

Proposal for a directive

Article 1 – paragraph 1 – point 5

Directive 2011/92/EU

Article 5 – paragraph 3 – point a

Text proposed by the Commission

(a) the developer *shall ensure* that the environmental report is prepared by *accredited and technically competent* experts *or*

Amendment

(a) the developer *may also seek* that the environmental report is prepared by *independent* experts.

Amendment 39

Proposal for a directive

Article 1 – paragraph 1 – point 5

Directive 2011/92/EU

Article 5 – paragraph 3 – point b

Text proposed by the Commission

Amendment

(b) the competent authority shall ensure that the environmental report is verified by accredited and technically competent experts and/or committees of national experts.

deleted

Amendment 40

Proposal for a directive

Article 1 – paragraph 1 – point 5

Directive 2011/92/EU

Article 5 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

Where ***accredited*** and technically competent experts assisted the competent authority to prepare the determination referred to in Article 5(2), the same experts shall not be used by the developer for the preparation of the environmental report.

Where ***independent*** and technically competent experts assisted the competent authority to prepare the determination referred to in Article 5(2), the same experts shall not be used by the developer for the preparation of the environmental report.

Amendment 41

Proposal for a directive

Article 1 – paragraph 1 – point 5

Directive 2011/92/EU
Article 5 – paragraph 3 – subparagraph 3

Text proposed by the Commission

The detailed arrangements for the use and selection of **accredited** and technically competent experts (for example qualifications required, assignment of evaluation, licensing, and disqualification), shall be determined by the Member States.

Amendment

The detailed arrangements for the use and selection of **independent** and technically competent experts (for example qualifications required, assignment of evaluation, licensing, and disqualification **sanctions**), shall be determined by the Member States **in accordance with the provisions of paragraph 4**.

Amendment 42

Proposal for a directive

Article 1 – paragraph 1 – point 6 – point b – introductory part

2012/0297

Article 6 – paragraphs 7 and 8

Text proposed by the Commission

(b) the following **paragraph 7** is added:

Amendment

(b) the following **paragraphs 7 and 8** are added:

Amendment 43

Proposal for a directive

Article 1 – paragraph 1 – point 6 – point b

Directive 2011/92/EU

Article 6 – paragraph 7

Text proposed by the Commission

The time-frames for consulting the public concerned on the environmental report referred to in Article 5(1) shall not be shorter than 30 days or longer than 60 days. In exceptional cases, where the

Amendment

The time-frames for consulting the public concerned on the environmental report referred to in Article 5(1) shall not be shorter than 30 days or longer than 60 days. In exceptional cases, where the

nature, complexity, location or size of the proposed project so require, the competent authority may extend this time-frame by **a further** 30 days; in that case, the competent authority shall inform the developer of the reasons justifying the extension.

nature, complexity, location or size of the proposed project so require, the competent authority may extend this time-frame by **up to** 30 days; in that case, the competent authority shall inform the developer of the reasons justifying the extension.

Amendment 44

Proposal for a directive

Article 1 – paragraph 1 – point 6 – point b

Directive 2011/92/EU

Article 6 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. In order to ensure the effective participation of the public concerned in the decision-making procedures, Member States shall ensure that contact information of and easy and quick access to the authority or authorities responsible for performing the duties arising from this Directive be available to the public at any time and regardless of any ongoing specific project subject to an environmental impact assessment, and that due attention is paid to the comments made and opinions expressed by the public.

Amendment 45

Proposal for a directive

Article 1 – point 8

Directive 2011/92/EU

Article 8 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

If the competent authority decides to grant development consent, it shall ensure that

If the competent authority decides to grant development consent, it shall ensure that

the development consent includes measures to monitor the significant adverse environmental effects, in order to assess the implementation and the expected effectiveness of mitigation and compensation measures, and to identify any unforeseeable adverse effects.

the development consent includes measures to monitor the significant adverse environmental effects *of both construction and operational phases*, in order to assess the implementation and the expected effectiveness of mitigation and compensation measures, and to identify any unforeseeable *significant* adverse effects, *and/or net biodiversity loss and to facilitate corrective action*.

Amendment 46

Proposal for a directive

Article 1 – point 8

Directive 2011/92/EU

Article 8 – paragraph 2 – subparagraph 3

Text proposed by the Commission

The type of parameters to be monitored and the duration of the monitoring shall be proportionate to the nature, location and size of the proposed project and the significance of its environmental effects.

Amendment

The type of parameters to be monitored and the duration of the monitoring shall be proportionate to the nature, location and size of the proposed project and the significance of its environmental effects. *The findings of such monitoring from construction and operational phases shall be submitted to the competent authority and actively disseminated in accordance with Directive 2003/4/EC. Existing monitoring arrangements resulting from other Union legislation may be used if appropriate.*

Amendment 47

Proposal for a directive

Article 1 – point 8

Directive 2011/92/EU

Article 8 – paragraph 2 – subparagraph 4 a (new)

Text proposed by the Commission

Amendment

Where monitoring indicates that there are significant unforeseen adverse impacts the developer shall be required to take corrective action. Developers, technically competent experts and/or national experts may be liable to penalties and/or sanctions where unforeseen adverse environmental effects are the result of negligence or a serious breach of accreditation standards. The developer's proposals for corrective action shall be made publicly available and approved by the competent authority or authorities which shall ensure compliance.

Amendment 48

Proposal for a directive

Article 1 – paragraph 1 – point 8

Directive 2011/92/EU

Article 8 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

Depending on the nature, complexity, location and size of the proposed project, the competent authority may extend that deadline by ***a further*** 3 months; in that case, the competent authority shall inform the developer of the reasons justifying the extension and of the date when its decision is expected.

Depending on the nature, complexity, location and size of the proposed project, the competent authority may extend that deadline by ***up to*** 3 months; in that case, the competent authority shall inform the developer of the reasons justifying the extension and of the date when its determination is expected.

Amendment 49

Proposal for a directive

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Article 1 – paragraph 1 – point 9 – point a
Directive 2011/92/EU
Article 9 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) the right for the public concerned to challenge the information provided and initiate legal proceedings pursuant to Article 11.

Amendment 50

Proposal for a directive
Article 1 – point 9 – point b
Directive 2011/92/EU
Article 9 – paragraphs 3 b and 3 c (new)

Text proposed by the Commission

Amendment

(b) the following **paragraph 3** is added>

(b) the following **paragraphs 3, 4 and 5** are added:

"4. The public may institute a legal challenge, including making an application for injunction, in respect of the development consent decision by initiating legal proceedings within three months after the issue of the formal decision by the competent authority has been duly publicised.

5. The competent authority or authorities shall ensure that projects with development consent will not commence prior to the expiry of the time-limit for legal challenge."

Amendment 51

Proposal for a directive
Article 1 – paragraph 1 – point 9 a (new)

Directive 2011/92/EU
Article 9 a (new)

Text proposed by the Commission

Amendment

(9a) The following article is added after Article 9:

"(9a) Member States shall ensure that the competent authority or authorities, when performing the duties arising from this Directive, do not find themselves in a conflict of interest pursuant to any legislation binding upon them."

Amendment 52

Proposal for a directive

Article 1 – paragraph 1 – point 9 a (new) Directive 2011/92/EU

Article 11 – paragraphs 5 a and b (new)

Text proposed by the Commission

Amendment

(9b) Article 11 is amended as follows:

(a) the following paragraph 6 is added:

'(6) Member States may lay down that a breach of procedural and formal rules shall not affect the lawfulness of a development consent if the decision would not have been likely to have been different without the breach. That is particularly the case where:

(a) in cases where participation by the competent authorities or the public is required pursuant to this Directive, individuals or authorities were not given the opportunity to participate, but the interests at stake were insignificant or were taken into account in the decision,

(b) the particulars referred to in Article 9(1) are incomplete, or

(c) an announcement required pursuant to this Directive was made in a flawed manner, but the purpose for which the announcement was required was still fulfilled.

This shall be without prejudice to the right of Member States to lay down in their domestic law that, in addition to a formal error, there must be a breach of the law.'

(b) the following paragraph 7 is added:

'(7) Member States may lay down that procedural steps which have been carried out incorrectly may also be performed correctly after the decision has been adopted if the procedural error is not serious and does not affect the fundamentals of the project. Member States shall ensure that the competent authorities also take a fresh decision, whose outcome remains open, in the event of subsequent rectification of a procedural step in which an error has occurred.'

Amendment 53

Proposal for a directive

Article 1 – paragraph 1 – point 11

Directive 2011/92/EU

Article 12 a and Article 12 b

Text proposed by the Commission

Amendment

(11) The following Articles 12a and 12b are inserted:

deleted

'Article 12a

The Commission shall be empowered to adopt delegated acts, in accordance with Article 12b, concerning the selection criteria listed in Annex III and the information referred to in Annexes II.A and IV, in order to adapt them to scientific and technical progress.

Article 12b

- 1. The power to adopt delegated acts is conferred on the Commission subject to the condition laid down in this Article.*
- 2. The delegation of power referred to in Article 12a shall be conferred on the Commission for an indeterminate period of time from the [OPOCE please introduce date of the entry into force of this Directive].*
- 3. The delegation of power referred to in Article 12a may be revoked at any time by the European Parliament or by the Council. A revocation decision shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a date specified therein. It shall not affect the validity of any delegated acts already in force.*
- 4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.*
- 5. A delegated act adopted pursuant to Article 12a shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of the notification of that act to the European Parliament and the Council or if, before the expiry of that period, the*

European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.'

Amendment 54

Proposal for a directive
Annex 1 – point -1 (new)
Directive 2011/92/EU
Annex I – paragraph 4 a (new)

Text proposed by the Commission

Amendment

(-1) The following paragraph is inserted in Annex I:

4a. Open-cast mining and similar open-air extractive activities.

(This amendment automatically removes 'open-cast mining' from point (a) of paragraph 2 ('EXTRACTIVE INDUSTRY') of the Annex II of the directive 2011/92/EU)

Amendment 55

Proposal for a directive
Annex 1 – point 1
Directive 2011/92/EU
Annex II.A – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) a description of the physical characteristics of the whole project, including, where relevant, its subsurface, during the construction and operational

(a) a description of the physical characteristics of the whole project, including, where relevant, its subsurface ***and underground***, during the construction

phases;

and operational phases, *including demolition.*

Amendment 56

Proposal for a directive

Annex – point 1

Directive 2011/92/EU

Annex II.A – paragraph 3 – point b

Text proposed by the Commission

Amendment

(b) the use of natural resources, in particular soil, land, water, and biodiversity, including hydromorphological changes.

(b) the use of natural resources, in particular soil, land, water, *air* and biodiversity, including hydromorphological changes.

Amendment 57

Proposal for a directive

Annex – point 2

Directive 2011/92/EU

Annex III – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) the use of natural resources, in particular land, soil, water, and biodiversity, including hydromorphological changes.

(c) the use of natural resources, in particular land, soil, water, *air* and biodiversity, including hydromorphological changes.

Amendment 58

Proposal for a directive

Annex 1 – point 2

Directive 2011/92/EU

Annex III – paragraph 1 – point f

Text proposed by the Commission

(f) the natural and man-made disaster risks and risk of accidents, with particular regard to hydromorphological changes, substances, or technologies or living organisms used, to specific surface and subsurface conditions or alternative use, and to the probability of accidents or disasters and the vulnerability of the project to these risks;

Amendment

(f) the natural and man-made disaster risks and risk of accidents, with particular regard to hydromorphological changes, substances, or technologies or living organisms used, to specific surface and subsurface conditions or **reasonable** alternative use, and to the probability of accidents or disasters and the vulnerability of the project to these risks;

Amendment 59

Proposal for a directive

Annex 1 – point 2

Directive 2011/92/EU

Annex III – paragraph 1 – point j

Text proposed by the Commission

(j) impacts of the project on the environment, in particular on land (increase of settlement areas over time – land take), soil (organic matter, erosion, compaction, sealing), water (quantity and quality), air and biodiversity (population quality and quantity and ecosystem degradation and fragmentation);

Amendment

(j) impacts of the project on the environment, in particular on land (increase of settlement areas over time – land take), soil (organic matter, erosion, compaction, sealing), water (quantity and quality), **underground when relevant**, air and biodiversity (population quality and quantity and ecosystem degradation and fragmentation);

Amendment 60

Proposal for a directive

Annex – point 2

Directive 2011/92/EU

Annex III – paragraph 2 – point c – point ii

Text proposed by the Commission

Amendment

(ii) coastal zones;

(ii) coastal zones ***and marine environment;***

Amendment 61

Proposal for a directive

Annex 1 – point 2

Directive 2011/92/EU

Annex III – paragraph 2 – point c – subpoint viii a (new)

Text proposed by the Commission

Amendment

(viii a) areas or places protected by national or regional legislation;

Amendment 62

Proposal for a directive

Annex 1 – point 2

Directive 2011/92/EU

Annex III – paragraph 2 – point c – subpoint viii b (new)

Text proposed by the Commission

Amendment

(viii b) seismic areas or those with a high risk of natural catastrophe.

Amendment 63

Proposal for a directive

Annex – point 2

Directive 2011/92/EU

Annex IV – paragraph 1 – point a

Text proposed by the Commission

(a) a description of the physical characteristics of the whole project, including, where relevant, its subsurface, and the water use and land-use requirements during the construction and operational phases;

Amendment

(a) a description of the physical characteristics of the whole project, including, where relevant, its subsurface, and the water use, **energy** and land-use requirements during the construction and operational phases **and demolition if relevant**;

Amendment 64

Proposal for a directive

Annex – point 2

Directive 2011/92/EU

Annex IV – paragraph 1 – point b

Text proposed by the Commission

(b) a description of the main characteristics of the production processes, for instance, nature and quantity of the materials, energy and natural resources (including water, land, soil and biodiversity) used;

Amendment

(b) a description of the main characteristics of the production processes, for instance, nature and quantity of the materials, energy and natural resources (including water, **air**, land, soil and biodiversity) used;

Amendment 65

Proposal for a directive

Annex – point 2

Directive 2011/92/EU

Annex IV – paragraph 5 – point c

Text proposed by the Commission

(c) the emission of pollutants, noise, vibration, light, heat and radiation, the creation of nuisances, and the elimination of waste;

Amendment

(c) the emission of pollutants, noise, vibration, light, heat and radiation, the creation of nuisances, and the elimination **and recovery** of waste;

Amendment 66

Proposal for a directive

Annex – point 2

Directive 2011/92/EU

Annex IV – paragraph 5 – point d

Text proposed by the Commission

(d) the risks to human health, cultural heritage or the environment (e.g. due to accidents or disasters);

Amendment

(d) the risks to human health, cultural heritage or the environment (e.g. due to accidents or **man-made and natural** disasters);

Amendment 67

Proposal for a directive

Annex – point 2

Directive 2011/92/EU

Annex IV – paragraph 5 – point f

Text proposed by the Commission

(f) the greenhouse gas emissions, including from land use, land use change and forestry;

Amendment

(f) the greenhouse gas emissions, including from land use, land use change, forestry **and the energy demand of the project;**

Amendment 68

Proposal for a directive

Annex – point 2

Directive 2011/92/EU

Annex IV – paragraph 7

Text proposed by the Commission

7. A description of the measures envisaged to prevent, reduce and, where possible, offset any significant adverse effects on the environment referred to in point 5 and, where appropriate, of any proposed

Amendment

7. A description of the measures envisaged **firstly** to prevent, **then to** reduce and, where possible **and as a last resort**, offset any significant adverse effects on the environment referred to in point 5 and,

monitoring arrangements, including the preparation of a post-project analysis of the adverse effects on the environment. This description should explain the extent to which significant adverse effects are reduced or offset and should cover both the construction and operational phases.

where appropriate, of any proposed monitoring arrangements, including the preparation of a post-project analysis of the adverse effects on the environment. This description should explain the extent to which significant adverse effects are reduced or offset and should cover both the construction and operational phases.

PROCEDURE

Title	Amendment of Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment
References	COM(2012)0628 – C7-0367/2012 – 2012/0297(COD)
Committee responsible Date announced in plenary	ENVI 19.11.2012
Opinion by Date announced in plenary	PETI 19.11.2012
Rapporteur Date appointed	Nikolaos Chountis 6.11.2012
Date adopted	19.6.2013
Result of final vote	+: 25 –: 0 0: 1
Members present for the final vote	Marta Andreasen, Margrete Auken, Heinz K. Becker, Victor Boștinaru, Philippe Boulland, Nikolaos Chountis, Lidia Joanna Geringer de Oedenberg, Carlos José Iturgaiz Angulo, Peter Jahr, Lena Kolarska-Bobińska, Erminia Mazzoni, Judith A. Merkies, Ana Miranda, Chrysoula Paliadeli, Nikolaos Salavrakos, Jarosław Leszek Wałęsa, Angelika Werthmann, Rainer Wieland, Tatjana Ždanoka
Substitute(s) present for the final vote	Vicente Miguel Garcés Ramón, Dolores García-Hierro Caraballo, Cristian Dan Preda
Substitute(s) under Rule 187(2) present for the final vote	Pilar Ayuso, María Auxiliadora Correa Zamora, João Ferreira, Gabriel Mato Adrover, Luis de Grandes Pascual

PROCEDURE

Title	Amendment of Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment			
References	COM(2012)0628 – C7-0367/2012 – 2012/0297(COD)			
Date submitted to Parliament	26.10.2012			
Committee responsible Date announced in plenary	ENVI 19.11.2012			
Committee(s) asked for opinion(s) Date announced in plenary	TRAN 18.4.2013	REGI 19.11.2012	CULT 19.11.2012	LIBE 19.11.2012
	PETI 19.11.2012			
Not delivering opinions Date of decision	REGI 27.11.2012	CULT 6.11.2012	LIBE 27.11.2012	
Rapporteur(s) Date appointed	Andrea Zanoni 21.11.2012			
Discussed in committee	6.5.2013	19.6.2013		
Date adopted	11.7.2013			
Result of final vote	+: -: 0:	49 13 3		
Members present for the final vote	Martina Anderson, Kriton Arsenis, Sophie Auconie, Pilar Ayuso, Paolo Bartolozzi, Sergio Berlato, Franco Bonanini, Biljana Borzan, Milan Cabrnock, Martin Callanan, Nessa Childers, Tadeusz Cymański, Chris Davies, Esther de Lange, Anne Delvaux, Bas Eickhout, Edite Estrela, Jill Evans, Elisabetta Gardini, Gerben-Jan Gerbrandy, Matthias Groote, Cristina Gutiérrez-Cortines, Satu Hassi, Jolanta Emilia Hibner, Christa Kläß, Holger Kraahmer, Jo Leinen, Corinne Lepage, Peter Liese, Zofija Mazej Kukovič, Linda McAvan, Radvilė Morkūnaitė-Mikulėnienė, Vladko Todorov Panayotov, Gilles Pargneaux, Antonyia Parvanova, Pavel Poc, Frédérique Ries, Anna Rosbach, Oreste Rossi, Dagmar Roth-Behrendt, Kārlis Šadurskis, Bogusław Sonik, Glenis Willmott, Sabine Wils			
Substitute(s) present for the final vote	Julie Girling, Romana Jordan, Marusya Lyubcheva, Judith A. Merkies, James Nicholson, Vittorio Prodi, Giancarlo Scottà, Renate Sommer, Alda Sousa, Struan Stevenson, Vladimir Urutchev, Kathleen Van Brempt, Anna Záborská, Andrea Zanoni			
Substitute(s) under Rule 187(2) present for the final vote	Fabrizio Bertot, Jean-Paul Bisset, Tarja Cronberg, Isabelle Durant, Ingeborg Gräßle, María Irigoyen Pérez, Csaba Óry			

Date tabled

22.7.2013