



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Petitions

2012/0297(COD)

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

PA_Legam

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 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 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

(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.

Amendment

(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

Amendment

(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.

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

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 ***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 (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 ***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.

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

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.

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. ***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

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 EU 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

"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 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

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(**);

(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);

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 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

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

reduce significant effects. The detailed list of information to be provided is specified in Annex II.A."

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

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

paragraph 2 shall:

other Union legislation. *Where the 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 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 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:

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

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

Amendment

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.

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 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.

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 *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

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 ***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

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.

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,

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.

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

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 phases;

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

(b) the use of natural resources, in particular soil, land, water, ***air*** and

biodiversity, including hydromorphological changes.

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

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

Amendment

(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

(ii) coastal zones;

Amendment

(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

(viib) 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

Amendment

(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;

(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

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, land, soil and biodiversity) used;

(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

Amendment

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.

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, 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	<table> <tr> <td>+: </td><td>25</td></tr> <tr> <td>–: </td><td>0</td></tr> <tr> <td>0: </td><td>1</td></tr> </table>	+:	25	–:	0	0:	1
+:	25						
–:	0						
0:	1						
Members present for the final vote	Marta Andreasen, Margrete Auken, Heinz K. Becker, Victor Boştinaru, 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						