

## P7\_TA(2013)0413

### Assessment of the effects of certain public and private projects on the environment \*\*\*I

Amendments adopted by the European Parliament on 9 October 2013 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))<sup>1</sup>

(Ordinary legislative procedure: first reading)

#### 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

*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

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<sup>1</sup> The matter was referred back to the committee responsible for reconsideration pursuant to Rule 57(2), second subparagraph (A7-0277/2013).

national competence.

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 this 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 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*

*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 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.**

## Amendment 12

### Proposal for a directive

#### Recital 12

*Text proposed by the Commission*

(12) When applying Directive 2011/92/EU, it is necessary to ensure **a competitive business environment, especially for small**

*Amendment*

(12) When applying Directive 2011/92/EU, it is necessary to ensure smart, sustainable and inclusive growth, in line with the

***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'.

objectives set out in the Commission's Communication entitled 'Europe 2020 – A strategy for smart, sustainable and inclusive growth'.

### **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) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation<sup>1</sup>, with the aim of being able to support the use of best available technologies (BAT), improve competitiveness and prevent standards from being interpreted differently.***

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<sup>1</sup> 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 flora<sup>1</sup>.***

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<sup>1</sup> OJ L 206, 22.7.1992, 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.***

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

(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 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, oblige 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.*

## **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 to its size and stage.***

## **Amendment 21**

### **Proposal for a directive Recital 16**

*Text proposed by the Commission*

*Amendment*

(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.

(16) When determining whether significant 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*

(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, **when they deem it necessary or if the developer so requests, issue an opinion determining** 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, **to simplify 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.*

## **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.

## **Amendment 102**

### **Proposal for a directive Recital 19 a (new)**

*Text proposed by the Commission*

*Amendment*

***(19a) It should be ensured that the persons who check the environmental reports have, due to their qualifications and experience, the necessary technical expertise to carry out the tasks set out in Directive 2011/92/EU in a scientifically objective manner and in total independence from the developer and the competent authorities themselves.***

## **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

*Amendment*

(20) With a view to ensuring transparency and accountability, the competent authority should be required to substantiate ***comprehensively and in detail*** its decision

respect of a project, indicating that it has taken into consideration the results of the consultations carried out and the relevant information gathered.

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.***

## 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

#### *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

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.

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.***

## **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 law<sup>1</sup>, 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.***

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

## **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.***

## **Amendment 32**

### **Proposal for a directive Recital 24 a (new)**

*Text proposed by the Commission*

*Amendment*

***(24a) 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*

(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.

*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. ***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.***

## Amendment 34

### Proposal for a directive Recital 27

*Text proposed by the Commission*

***(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.***

*Amendment*

*deleted*

## 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;"*

## **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 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*

*Amendment*

(g) "environmental impact assessment" shall mean the process of preparing an environmental report, carrying out consultations (including with the public concerned and the environmental

(g) "environmental impact assessment" shall mean the process of preparing an environmental report *by the developer*, carrying out *the* consultations (including with the public concerned and the



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.

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 as well as the provision of information on the decision in accordance with Articles 5 to 10;

#### **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;*

#### **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;*

## **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 to 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);*

## **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 integrate the assessments made by many authorities. 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*

*Amendment*

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

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.

(c) *paragraph 3 is* replaced by the following:

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*

*Amendment*

*4. This Directive shall not apply to projects the details of which are adopted*

*deleted*

*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 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."*

## **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."***

## **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, without prejudice to ***any provisions to the contrary contained in*** other relevant Union

#### *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 authorities, without prejudice to other relevant Union legislation.

legislation.

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

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 demonstrate in the environmental report that 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 ***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

*Amendment*

#### 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 ***including flora and fauna***, with particular attention to species and habitats protected under ***Directives 92/43/EEC, 2000/60/EC and 2009/147/EC***;
- (b) land, soil, 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 natural and man-made disaster risks.

(c), to *likely* natural and man-made disaster risks.

## Amendments 55 and 127/REV

### Proposal for a directive

#### Article 1 – point 4

Directive 2011/92/EU

Article 4 - paragraphs 3, 4, 5 and 6

#### *Text proposed by the Commission*

(4) Article 4 is amended as follows:

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

"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 basis of the information provided by the developer and taking into account, where

#### *Amendment*

(4) Article 4 is amended as follows:

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

"3. For projects listed in Annex II, *and when it is considered of relevance by the Member State*, 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.*

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."

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

"5. The competent authority shall make its decision pursuant to paragraph 2, on the basis of the information provided by the developer *pursuant to paragraph 3* and

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

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 **opinion** set out in

out in Article 5(2)."

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.** 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

#### *Amendment*

2. **Where the developer so requests**, the competent authority, after having consulted

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 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.

the authorities referred to in Article 6(1) and the developer, 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 **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 106**

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

### *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 competent experts; ***and***

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

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

***The Authority that reviews the Environmental Impact Assessment is asked not to have any interest or relation with the file in order to avoid any conflict of interest.***

## 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 TENTec system and Natura 2000 software and possible alternatives."***

## **Amendment 61**

### **Proposal for a directive**

#### **Article 1 – point 6 – point -a (new)**

Directive 2011/92/EU

Article 6 – paragraph 1

*Text proposed by the Commission*

*Amendment*

**(-a) 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."*;

## **Amendment 107**

### **Proposal for a directive**

#### **Article 1 – point 6 – point -a a (new)**

Directive 2011/92/EU

Article 6 – paragraph 2

*Text proposed by the Commission*

*Amendment*

*(-aa) 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, 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."*

## **Amendment 63**

### **Proposal for a directive**

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

Directive 2011/92/EU

Article 6 – paragraph 3

*Text proposed by the Commission*

*Amendment*

*(-ab) 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.'";*

## **Amendment 108**

### **Proposal for a directive**

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

Directive 2011/92/EU

Article 6 – paragraph 5

*Text proposed by the Commission*

*Amendment*

*(-ac) paragraph 5 is replaced by the following:*

*"5. The detailed arrangements for informing the public [...] and for consulting the public concerned [...] 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.'":*

## **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*

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.

*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 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)

**(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...<sup>+</sup> 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."**

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**<sup>+</sup> Number, date and title of the Regulation establishing the Connecting Europe Facility (2011/0302(COD)).**

## **Amendments 109, 93 and 130**

### **Proposal for a directive**

#### **Article 1 – point 8**

Directive 2011/92/EU

#### **Article 8**

*Text proposed by the Commission*

*Amendment*

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

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

(a) ***the results of*** the environmental assessment of the competent authority referred to in Article 3, ***including a***

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 measures to monitor the significant adverse environmental effects, **in order to assess**

**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) an outline of the main alternatives studied by the developer and an indication of the main reasons for his choice, taking into account the environmental effects;**

(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. 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 **on the basis of the relevant legislation.**

If the competent authority decides to grant development consent, it shall, **on the basis of the relevant legislation,** ensure that the development consent includes measures to monitor the significant adverse

*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 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.*

environmental effects.

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, *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.

*4a. The decision to grant development consent may also be taken by adopting a specific act of national legislation, provided that the competent authority has carried out all elements of the environmental impact assessment in*

*accordance with the provisions of this Directive.*

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\* *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;*

*(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*

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*.

## **Amendment 120**

### **Proposal for a directive**

#### **Article 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:*

*"Article 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 72**

### **Proposal for a directive**

#### **Article 1 – point 9 b (new)**

Directive 2011/92/EU

Article 10 – paragraph 1

*Text proposed by the Commission*

*Amendment*

*(9b) 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."**

## **Amendment 73**

### **Proposal for a directive**

#### **Article 1 – point 9 c (new)**

Directive 2011/92/EU

Article 10 a (new)

*Text proposed by the Commission*

*Amendment*

**(9c) 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."***

## **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 ...<sup>+</sup> 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.

***+ 24 months from the entry into force of this Directive.***

## **Amendment 110**

### **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 shall be subject to the obligations referred to in Articles 3 to 11 of Directive 2011/92/EU as amended by this Directive, ***if the developer requests to continue the environmental impact assessment for his project in accordance with the amended provisions.***

## **Amendments 79, 112 and 126**

### **Proposal for a directive**

#### **Annex – point -1 (new)**

Directive 2011/92/EU

Annex I



*(-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 points are inserted:*

**"14a. Exploration, limited to the phase involving the application of hydraulic fracturing, 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, limited to the phase involving the application of hydraulic fracturing, and extraction of natural gas from coal beds, regardless of the amount extracted.**

*(e) 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."**

*(f) the following point 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**

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

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

(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 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.

## **Amendment 124**

### **Proposal for a directive**

#### **Annex – point 2**

Directive 2011/92/EU

Annex III – point 2 – - point c - point ii

*Text proposed by the Commission*

(ii) coastal zones;

## ***THE PROJECTS LISTED IN ANNEX II)***

1. A description of the project, including:

(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.

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, ***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*

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

## Amendments 83 and 129/REV

### Proposal for a directive

#### Annex – point 2

Directive 2011/92/EU

Annex IV

*Text proposed by the Commission*

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

1. Description of the project, including in particular:

(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

*Amendment*

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:

***(-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, 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*

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 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;***

***specific characteristics*** 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 ***through its fauna and flora***, 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, 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;***

(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;

(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

(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 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,

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 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.

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 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.