



DIRECTIVE 2014/52/EU of 16 April 2014

**amending Directive 2011/92/EU on the
assessment of the effects of certain public and
private projects on the environment**

DG ENV

Objectives of the revision

After 25 years of application, the EIA Directive has not significantly changed, while the policy, legal and technical context has evolved considerably.

General objective: adjust the EIA Directive in order to

- correct identified and persisting shortcomings.
- reflect ongoing environmental and socio-economic priorities and challenges.
- align with the principles of smart regulation.
- reflect the ECJ case-law.

IA - <http://ec.europa.eu/environment/eia/pdf/IA%20SWD-2012-355.pdf>

Specific and Operational objectives of the revision

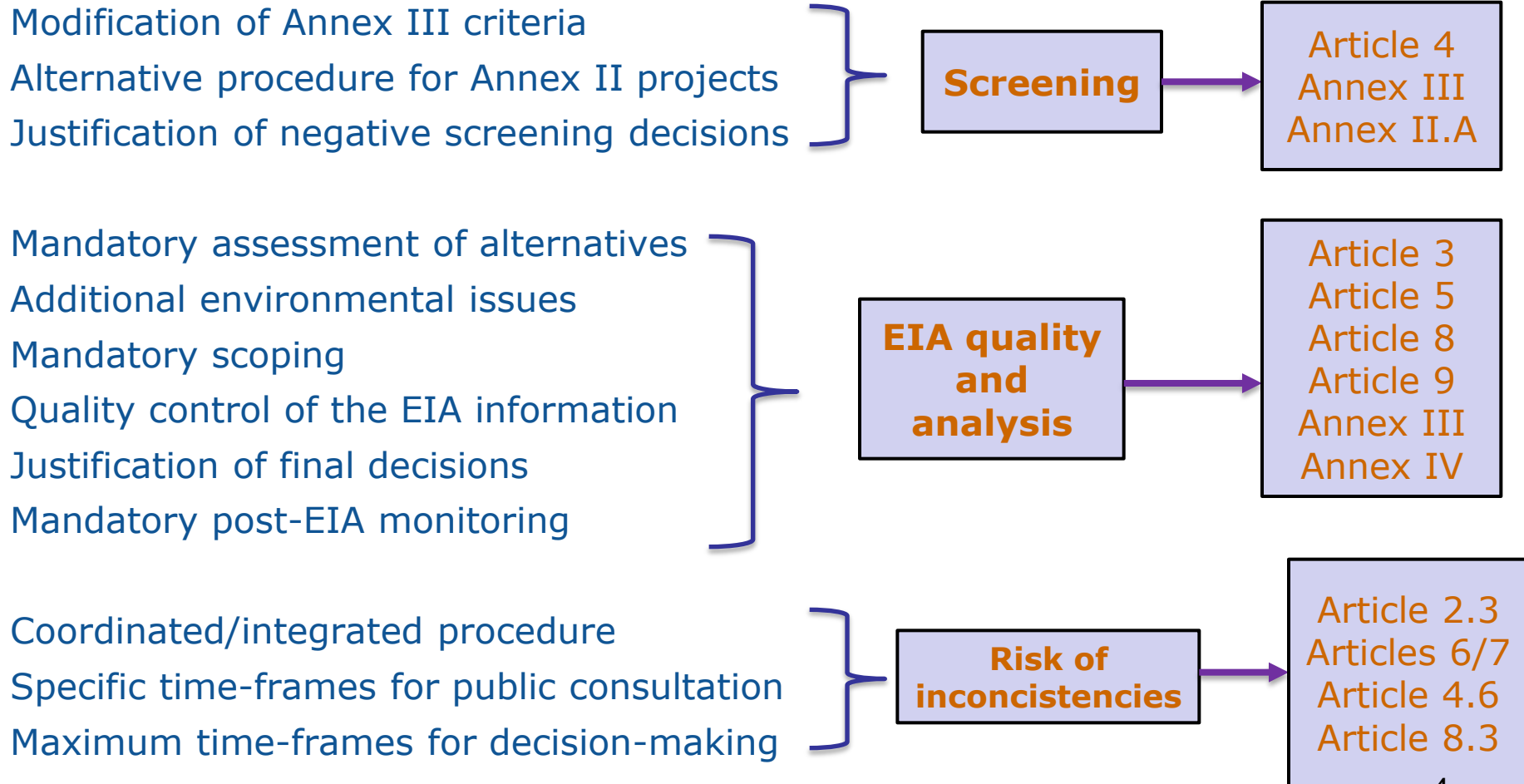
Introduce and/or strengthen the quality related elements of the EIAD

- Specify the content and justification of the screening decision
- Specify the content and justification of the EIA report and the final decision
- Adjust the EIAD to the new environmental challenges

Enhance policy coherence and synergies with other EU/international law and simplify procedures

- Streamline environmental assessments
- Specify time-frames for the various stages of the EIA process

COM proposal – overview



Final text - overview

Modification of Annex III criteria
Alternative procedure for Annex II projects
Justification of negative screening decisions

Screening

Article 4
Annex III
Annex II.A

Mandatory assessment of alternatives
Additional environmental issues
Mandatory scoping
Quality control of the EIA information
Justification of final decisions
Mandatory post-EIA monitoring

**EIA quality
and
analysis**

Article 3
Article 5
Article 8
Article 9
Annex III
Annex IV

Mandatory coordinated/integrated procedure
Specific **time-frames** for public consultation
Maximum time-frames for decision-making

**Risk of
inconcistencies**

Article 2.3
Articles 6/7
Article 4.6
Article 8.3

Overall assessment of the final text

- **Efficiency objective** – not fully met:
 - ✓ Some important elements - mandatory scoping and specific time-frames for some steps of the decision-making – not retained.
 - ✓ One-stop shop with a much narrower scope - limited to EIA/Nature Directives.
- **Effectiveness objective** - covered in a satisfactory manner:
 - ✓ Quality control mechanism;
 - ✓ Assessment of reasonable alternatives,
 - ✓ Monitoring measures;
 - ✓ Broader scope of EIA covering new issues;
 - ✓ Justification of screening/EIA decisions.

Amended Article 1

Definitions

- New definition of EIA inserted in Art. 1(2)g, reflecting also the case-law (C-50/09).

Special cases

- Art. 1(3) - exemptions:
 - projects or part of projects, having defence as their sole purpose (C-435/97) (see also recital 19);
 - projects having the response to to civil emergencies as their sole purpose (recital 20).
- Art. 1(4) (projects approved in detail by law) deleted and moved to Art. 2(5) with stricter conditions.

Amended Article 2(3): EIA one-stop shop

- Main obligation: coordinated/integrated procedure, *where appropriate*, for assessments under EIA and/or Habitats/Birds Directives.
- For assessments under EIA and other Union legislation (e.g. SEA, Water Framework, IED, Waste Framework, Seveso, listed in recital 37) possibility to apply one-stop shop.
- Short explanations of coordinated/integrated procedures.
- COM to issue guidance on coordinated/integrated procedures.

Other amendments to Article 2

- Clarification change - "development" [consent] added in Art. 2(1) and 2(2).
- **Exemptions:**
 - Art. 2(4) further clarified – *"where the application of those provisions would result in adversely affecting the purpose of the project, provided the objectives of this Directive are met"*;
 - Art. 2(5) projects approved in detail by law – reflecting (C-128/09), see also recital 24.

Amended Article 3

Adaptation to new environmental issues

- Use of natural resources (biodiversity, land, soil, water, air).
- Biodiversity with focus on species/habitats protected under the two Nature directives.
- Risks of major accidents and or/ disasters.
- Recitals 7 to 16.

Consistency with other provisions

- Population and human health (instead of "human beings").
- Reference to "significant" effects, i.e. objective of Article 2(1).
- Annex IV.4.

Screening: amended Article 4 & Annexes II.A and III

New items

- Art. 4(3) - thresholds/criteria to decide when projects have/have not to undergo screening or EIA.
- Art. 4(4) and Annex II.A – list of information to be provided by the developer.
- Art. 4(5): screening decision-making/content of the screening decision:
 - ✓ on the basis of the information provided by the developer.
 - ✓ take into account, where relevant, the results of preliminary verifications/assessments.
 - ✓ use of annex III criteria reasons (C-87/02 and C-75/08) for any screening decision.
 - ✓ measures to avoid or prevent significant adverse effects (if no EIA).
- Art. 4(6): time-frame of the screening decision:
 - ✓ 90 days (from the date on which the developer has submitted all the requisite information).
 - ✓ Possibility for extension in exceptional cases (in writing informing the developer of the reasons for the extension and the expected new date).

EIA report: amended Article 5 & Annex IV

Art. 5(1) – EIA report

- description of the project (site, design, size and other relevant features);
- description of the likely significant effects;
- description of the features of the project and/or measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects;
- description of the reasonable alternatives studied by the developer relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen;
- non-technical summary;
- any additional information specified in Annex IV.

Annex IV – content of the EIA report

- Alternatives, including baseline scenario (IV.2 and IV.3).
- Adaptation to new environmental issues (IV.4, IV.5 and IV.8).
- Monitoring (IV.7).
- EIA related issues (IV.6 and IV.10)

EIA report: amended Article 5 & Annex IV

Art. 5(3) – Quality of EIA report (new provision)

- Guarantee the completeness and quality of the EIA report.
- Two cumulative conditions:
 - Developer shall ensure that the EIA report is prepared by competent experts and
 - CA shall ensure that it has, or has access as necessary to, sufficient expertise to examine the EIA report.
- Where necessary, CA shall seek from the developer supplementary information, directly relevant to reaching the reasoned conclusion on the significant effects of the project.

Public consultation: amended Article 6

New items

- Art. 6(1) - local and regional authorities clearly spelled out as bodies given an opportunity to participate in the EIA consultation.
- Art. 6 (2) - public shall be informed electronically [and by public notices..].
- Art. 6(5) – relevant information shall be electronically accessible to the public, through at least a central portal or easily accessible points of access, at the appropriate administrative level.
- Art. 6(6) - reasonable time-frames for the different phases to be provided (for information and for participation in the decision-making).
- Art. 6(7) - time-frame for consulting the public concerned on the EIA report - at least 30 days.

Transboundary consultations: amended Art. 7

New items

- Art. 7 (4) second subpara - consultations may be conducted through an appropriate joint body.
- Art. 7 (5) - time-frames for public consultation highlighted.

Amended Article 8

- Results of consultations and the information gathered shall be duly taken into account in the development consent procedure.

Final decision: new Article 8a

- Art. 8a(1) - decision to grant development consent:
 - the reasoned conclusion;
 - any environmental conditions attached to the decision, a description of any features of the project and/or measures envisaged to avoid, prevent or reduce and, if possible, offset significant adverse effects on the environment as well as, where appropriate, monitoring measures.
- Art. 8a(2) - decision to refuse development consent – main reasons for the refusal.
- Art. 8a(3) – reflecting different EIA systems in the EU (also recital 21).

Final decision: new Article 8a (cont.)

- Art. 8a(4) - **monitoring** (new provision – recital 35).
- Requirements for projects with significant + adverse environmental effects;
 - Measures/features to avoid, prevent, reduce offset effects to be implemented by the developer.
 - MS to determine appropriate procedures to monitor such effects.
 - type of parameters to be monitored / duration of the monitoring: proportionate to the nature, location and size of the project and the significance of its effects on the environment;
 - use of existing monitoring from EU legislation (to avoid duplication).

Final decision: new Article 8a (cont.)

- Art. 8a(5) – CA shall issue the reasoned conclusion/development consent/other decisions within a *"reasonable period of time"*.
- Art. 8a (6) – validity of the reasoned conclusion/development consent/other decisions.

Information on the decision: amended Article 9

New items - Art. 9(1)

- The public and authorities under Art. 6(1) shall be promptly informed; information shall be available to the public and to the authorities under Art. 6(1).
- Summary of the results of the consultations and the information gathered and how those results have been incorporated or otherwise addressed, in particular the comments received from the affected Member State, shall be made available as well.

Other new provisions

- **New Article 9a – conflict of interest**

MSs shall ensure that CA perform the duties in an objective manner and do not find themselves in a situation giving rise to a conflict of interest.

Where the competent authority is also the developer, MSs shall at least implement, within their organisation of administrative competences, an appropriate separation between conflicting functions.

- **New Article 10a – penalties**

MSs shall lay down rules on penalties applicable to infringements of the national provisions adopted pursuant to the Directive. The penalties thus provided for shall be effective, proportionate and dissuasive.

Other new provisions (cont.)

■ Amended Article 12(2) – information to the Commission:

Every six years from 15 May 2017 MSs shall inform the Commission, where such data are available, of:

- number of projects referred to in Annexes I and II made subject to EIA;
- breakdown of EIA according to the project categories set out in Annexes I and II;
- number of projects referred to in Annex II made subject to a determination in accordance with Art. 4(2);
- average duration of the EIA process;
- general estimates on the average direct costs of EIAs, including the impact to SMEs.

Transitional provisions – Art. 3 of Directive 2014/52/EU

- Projects for which the screening was initiated before 15 May 2017 shall be subject to the provisions of Directive 2011/92/EU (i.e. current regime).

- Projects for which:
 - the scoping was initiated or
 - the EIA report was submitted by the developerbefore 16 May 2017 shall be subject to the provisions of Directive 2011/92/EU (i.e. current regime).

Important dates

25 April 2014 – publication in OJ

15 May 2014 – entry into force of Directive 2014/52/EU

Till 16 May 2017 – transposition/application in Member States

Text of Directive 2014/52/EU -

http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2014.124.01.0001.01.ENG