

Directive 2014/52/EU amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment¹

Checklist for transposition

Directive 2014/52/EU amends Directive 2011/92/EU in order to strengthen the quality of the environmental impact assessment procedure, align that procedure with the principles of smart regulation and enhance coherence and synergies with other Union legislation and policies, as well as strategies and policies developed by Member States in areas of national competence.

Without prejudice to Article 3 of Directive 2014/52/EU, Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 16 May 2017 (see Article 2(1)).

In line with Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on implementing European Community Environmental Law (COM(2008) 773), this document provides some elements of guidance to facilitate and accelerate national authorities' work on transposition of Directive 2014/52/EU into national legal orders.

The essence of the document is to make sure that national authorities quickly identify all the amendments introduced by the Directive and which need to be transposed at national level. Some practical examples related to implementation may be included for purely illustrative purposes.

Views expressed in this document reflect only the understanding of the Commission services and are without prejudice of any Commission action or position on the matter. The purpose of the document is not to interpret EU law. The Court of Justice of the European Union is the only source of definitive interpretation of EU law.

The document does not prejudge the Commission's assessment of the conformity of national transposition legislation, which will always need to be examined on the basis of its specific content and legal context.

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| Yellow | Articles/paragraphs where transposition is required |
| Green | Articles/paragraphs where transposition is optional |
| White | Articles/paragraphs where transposition is not required |

| Article | Text | Points to be checked |
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| 1(2)(g) | “environmental impact assessment” means a process consisting of: | This is a new definition making clear the steps of the EIA procedure. |

¹ Only provisions of 2011/92/EU amended by 2014/52/EU are included in the checklist.

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| | <p>(i) the preparation of an environmental impact assessment report by the developer, as referred to in Article 5(1) and (2);</p> <p>(ii) the carrying out of consultations as referred to in Article 6 and, where relevant, Article 7;</p> <p>(iii) the examination by the competent authority of the information presented in the environmental impact assessment report and any supplementary information provided, where necessary, by the developer in accordance with Article 5(3), and any relevant information received through the consultations under Articles 6 and 7;</p> <p>(iv) the reasoned conclusion by the competent authority on the significant effects of the project on the environment, taking into account the results of the examination referred to in point (iii) and, where appropriate, its own supplementary examination; and</p> <p>(v) the integration of the competent authority's reasoned conclusion into any of the decisions referred to in Article 8a.</p> | <p>It is based on the case-law of the Court of Justice of the EU (C-50/09, especially for p. (iv)). It needs either to be transposed into national legislation or that legislation has to provide for a legal framework clearly outlining these steps. See also recital 23 explaining the interlink between the different steps of the procedure.</p> |
| 1(3) | <p>Member States may decide, on a case-by-case basis and if so provided under national law, not to apply this Directive to projects, <u>or parts of projects, having defence as their sole purpose, or to projects having the response to civil emergencies as their sole purpose</u>, if they deem that such application would have an adverse effect on those purposes.</p> | <p>This paragraph clarifies the existing exemption (with regard to national defence projects) on the basis of the case-law of the Court of Justice of the EU (C-435/97). In addition, based on the implementation experience, projects having the response to civil emergencies as their sole purpose could also be exempted. See also recitals 19 and 20. The provision needs to be transposed into national legislation if the Member State chooses to apply this exemption.</p> |
| 2(1) | <p>Member States shall adopt all measures necessary to ensure that, before <u>development</u> consent is given, projects likely to have significant effects on the environment by virtue, inter alia, of their nature, size or location are made subject to a requirement for development consent and an assessment with regard to their effects on the environment. Those projects are defined in Article 4.</p> | <p>This paragraph is identical to Art. 2(1) of 2011/92/EU and therefore it should already appear in national legislation. In order to streamline the definitions used throughout the text of the Directive "development" is added to "consent" in line with the definition under Art. 1(2)(c). Possible amendments to national legislation may be needed depending on the wording in transposing legislation.</p> |
| 2(2) | <p>The environmental impact assessment may be integrated into the existing procedures for <u>development</u> consent to projects in the Member States, or, failing this, into other procedures or into procedures to be</p> | <p>This paragraph is identical to Art. 2(2) of 2011/92/EU and therefore it should already appear in national legislation. In order to streamline the definitions used throughout the</p> |

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| | established to comply with the aims of this Directive. | text of the Directive and in view of the new definition for EIA under Art.1(2)(g), "development" is added to "consent" in line with the definition under Art. 1(2)(c). Possible amendments to national legislation may be needed depending on the wording in transposing legislation. |
| 2(3) | In the case of projects for which the obligation to carry out assessments of the effects on the environment arises simultaneously from this Directive and from Council Directive 92/43/EEC and/or Directive 2009/147/EC of the European Parliament and the Council, Member States shall, where appropriate, ensure that coordinated and/or joint procedures ² fulfilling the requirements of that Union legislation are provided for. | This is a new provision introducing one-stop shop for assessments arising from the EIA and the nature Directives. It needs to be transposed into national legislation. See also recital 37, as well as the Commission guidance document (COM(2016)xxx). |
| | In the case of projects for which the obligation to carry out assessments of the effects on the environment arises simultaneously from this Directive and Union legislation other than the Directives listed in the first subparagraph, Member States may provide for coordinated and/or joint procedures. | This is a new provision introducing one-stop shop for assessments arising from the EIA and other Union legislation. Transposition would be required if the Member State opts to use it. It is important to specify which assessments under other Union legislation would fall under such procedures. See also recital 37. |
| | Under the coordinated procedure referred to in the first and second subparagraphs, Member States shall endeavour to coordinate the various individual assessments of the environmental impact of a particular project, required by the relevant Union legislation, by designating an authority for this purpose, without prejudice to any provisions to the contrary contained in other relevant Union legislation. | This is a new provision on a description relating to the one-stop shop. If the Member State opts for a coordinated procedure, the description needs to be either transposed as such or to be provided for into national legislation to ensure correct implementation of the Directive. See also recital 37. |
| | Under the joint procedure referred to in the first and second subparagraphs, Member States shall endeavour to provide for a single assessment of the environmental impact of a particular project required by the relevant Union legislation, without prejudice to any provisions to the contrary contained in other relevant Union legislation. | This is a new provision on a description relating to the one-stop shop. If the Member State opts for a joint procedure, the description needs to be transposed if it is not provided for already existing national legislation which would serve the same purpose to ensure correct implementation of the Directive. See also recital 37. |
| | The Commission shall provide guidance regarding the setting up of any coordinated or | This paragraph sets out an obligation for the Commission and |

² Member States have the opportunity to choose one of the two procedures or opt for combination of these. Depending on the choice made, respective definitions need to be transposed into national legislation.

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| | joint procedures for projects that are simultaneously subject to assessments under this Directive and Directives 92/43/EEC, 2000/60/EC, 2009/147/EC or 2010/75/EU. | therefore does not need to be transposed into national legislation. |
| 2(4) | Without prejudice to Article 7, Member States may, in exceptional cases, exempt a specific project from the provisions laid down in this Directive, <u>where the application of those provisions would result in adversely affecting the purpose of the project, provided the objectives of this Directive are met:</u> | The first part of the paragraph is identical to Art. 2(4) of 2011/92/EU and should already appear in national legislation. The additional wording further clarifies the exemption. The application of this paragraph is optional and therefore it only needs to be transposed into national legislation if the Member State chooses to apply this exemption. |
| 2(5) | Without prejudice to Article 7, in cases where a project is adopted by a specific act of national legislation, Member States <u>may exempt that project from the provisions relating to public consultation laid down in this Directive</u> , provided the objectives of this Directive are met. | This provision is based on Art. 1(4) of 2011/92/EU and on the case-law of the Court of Justice of the EU (C-287/98, C-128/09) further clarifying the exemption (<u>only</u> from the provisions relating to public consultation). The application of this paragraph is optional and therefore it only needs to be transposed into national legislation if the Member State chooses to apply this exemption. |
| | Member States shall inform the Commission of any application of the exemption referred to in the first subparagraph every two years from 16 May 2017. | This paragraph sets out a direct obligation for Member States for reporting. As such, it does not need to be transposed into national legislation; however, it has to be complied with by the Member States if they opt for the exemptions referred to in it. |
| 3(1) | The environmental impact assessment shall identify, describe and assess in an appropriate manner, in the light of each individual case, the direct and indirect significant effects of a project on the following factors: (a) <u>population and human health</u> ; (b) <u>biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC</u> ; (c) <u>land</u> , soil, water, air and climate; (d) material assets, cultural heritage and the landscape; (e) the interaction between the factors referred to in points (a) to (d). | Art. 3 is a fundamental provision as already recognised by the Court of Justice of the EU (C-50/09). The paragraph is based on Art. 3 of 2011/92/EU, however, the scope of the EIA is broadened to cover new factors (e.g. biodiversity, land). "Population and human health" replace "human beings". Therefore transposing national legislation needs to be amended to cover the amendments. It is to be noted that under references in p. 4 of Annex IV, as well as under recitals 7, 9–13 and 16, "climate" includes "climate change". |
| 3(2) | The effects referred to in paragraph 1 on the factors set out therein shall include the expected effects deriving from the | Art. 3 is a fundamental provision as already recognised by the Court of Justice of the EU (C-50/09). The |

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| | vulnerability of the project to risks of major accidents and/or disasters that are relevant to the project concerned. | scope of the EIA is broadened to cover also risks of major accidents/disasters. It needs to be transposed into national legislation. See also recitals 14-15 justifying the inclusion of risks of major accidents and/or disasters. |
| 4(3) | Where a case-by-case examination is carried out or thresholds or criteria are set for the purpose of paragraph 2, the relevant selection criteria set out in Annex III shall be taken into account. | This paragraph is identical to Art. 4(3) of 2011/92/EU and therefore it should already appear in national legislation. |
| | Member States may set thresholds or criteria to determine when projects need not undergo either the determination under paragraphs 4 and 5 or an environmental impact assessment, and/or thresholds or criteria to determine when projects shall in any case be made subject to an environmental impact assessment without undergoing a determination set out under paragraphs 4 and 5. | This paragraph is based on recital 10 of 2011/92/EU. The application of this paragraph is optional and therefore it only needs to be transposed into national legislation if the Member State chooses to apply it. See also recital 27. Please note that the on the basis of the case-law of the Court of Justice of the EU (C-66/06, C-255/08, C-435/09) when establishing the criteria and/or thresholds in question, the Member States are required to take into account <u>all the relevant selection criteria listed in Annex III</u> to the Directive. |
| 4(4) | Where Member States decide to require a determination for projects listed in Annex II, the developer shall provide information on the characteristics of the project and its likely significant effects on the environment. The detailed list of information to be provided is specified in Annex IIA. The developer shall take into account, where relevant, the available results of other relevant assessments of the effects on the environment carried out pursuant to Union legislation other than this Directive. The developer may also provide a description of any features of the project and/or measures envisaged to <u>avoid</u> or <u>prevent</u> what might otherwise have been significant adverse effects on the environment. | This is a new paragraph introducing new Annex II.A (information to be provided by the developer for projects listed in Annex II). It needs to be transposed into national legislation. See also recital 26. Please note that this para refers to "avoid/prevent" [significant adverse effects] and does not include the verbs "offset"/"compensate" which are linked to compensation measures. |
| 4(5) | The competent authority shall make its determination, on the basis of the information provided by the developer in accordance with paragraph 4 taking into account, where relevant, the results of preliminary verifications or assessments of the effects on the environment carried out pursuant to Union legislation other than this Directive. The determination shall be made available to the | Based on Art. 4(4) of 2011/92/EU and on the case-law of the Court of Justice of the EU (C-87/02 and C-75/08), this new paragraph clarifies and streamlines the screening procedure. It needs to be transposed into national legislation. See also recital 29. |

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| | <p>public and:</p> <p>(a) where it is decided that an environmental impact assessment is required, state the main reasons for requiring such assessment with reference to the relevant criteria listed in Annex III; or</p> <p>(b) where it is decided that an environmental impact assessment is not required, state the main reasons for not requiring such assessment with reference to the relevant criteria listed in Annex III, and, where proposed by the developer, state any features of the project and/or measures envisaged to <u>avoid</u> or <u>prevent</u> what might otherwise have been significant adverse effects on the environment.</p> | <p>Please note that this para refers to "avoid/prevent" [significant adverse effects] and does not include the verbs "offset"/"compensate" which are linked to compensation measures. [see above]</p> |
| 4(6) | <p>Member States shall ensure that the competent authority makes its determination as soon as possible and within a period of time not exceeding 90 days from the date on which the developer has submitted all the information required pursuant to paragraph 4.</p> | <p>This is a new paragraph setting maximum time frame for concluding a screening. It needs to be transposed into national legislation. See also recital 36.</p> |
| | <p>In exceptional cases, for instance relating to the nature, complexity, location or size of the project, the competent authority may extend that deadline to make its determination; in that event, the competent authority shall inform the developer in writing of the reasons justifying the extension and of the date when its determination is expected.</p> | <p>The application of this paragraph is optional and therefore it only needs to be transposed into national legislation if the Member State chooses to apply such an extension.</p> |
| 5(1) | <p>Where an environmental impact assessment is required, the developer shall prepare and submit an environmental impact assessment report. The information to be provided by the developer shall include at least:</p> <p>(a) a description of the project comprising information on the site, design, size and other relevant features of the project;</p> <p>(b) a description of the likely significant effects of the project on the environment;</p> <p>(c) a description of the features of the project and/or measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment;</p> <p>(d) a description of the reasonable alternatives studied by the developer, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment;</p> <p>(e) a non-technical summary of the information referred to in points (a) to (d); and</p> <p>(f) any additional information specified in Annex IV relevant to the specific</p> | <p>Based on Art. 5(3) of 2011/92/EU, this new sub-paragraph further clarifies the content of the EIA report. It needs to be transposed into national legislation. See also recital 31. Please note that only one non-technical summary (referred to under Art. 5(1) and Annex IV, p. 9) has to be included in the EIA report.</p> |

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| | <p>characteristics of a particular project or type of project and to the environmental features likely to be affected.</p> | |
| | <p>Where an opinion is issued pursuant to paragraph 2, the environmental impact assessment report shall be based on that opinion, and include the information that may reasonably be required for reaching a reasoned conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment.</p> | <p>This new sub-paragraph further clarifies the content of the EIA report. It needs to be transposed into national legislation.</p> |
| | <p>The developer shall, with a view to avoiding duplication of assessments, take into account the available results of <u>other relevant assessments</u> under Union or national legislation, in preparing the environmental impact assessment report.</p> | <p>This new sub-paragraph needs to be transposed into national legislation. See also recital 32 - other relevant assessments under Union legislation may include SEA, assessments under 92/43/EEC and 2000/60/EC.</p> |
| 5(2) | <p>Where requested by the developer, the competent authority, taking into account the information provided by the developer in particular on the specific characteristics of the project, including its location and technical capacity, and its likely impact on the environment, shall issue an opinion on the scope and level of detail of the information to be included by the developer in the environmental impact assessment report in accordance with paragraph 1 of this Article. The competent authority shall consult the authorities referred to in Article 6(1) before it gives its opinion.</p> | <p>Based on Art. 5(2) of 2011/92/EU, this new sub-paragraph clarifies the scoping stage. It needs to be transposed into national legislation. See also recital 30.</p> |
| | <p>Member States may also require the competent authorities to give an opinion as referred to in the first subparagraph, irrespective of whether the developer so requests.</p> | <p>This sub-paragraph is identical to the second sub-paragraph of Art. 5(2) of 2011/92/EU and therefore it should already appear in national legislation if a Member State opted to apply it.</p> |
| 5(3) | <p>In order to ensure the completeness and quality of the environmental impact assessment report:</p> <p>(a) the developer shall ensure that the environmental impact assessment report is prepared by competent experts;</p> <p>(b) the competent authority shall ensure that it has, or has access as necessary to, sufficient expertise to examine the environmental impact assessment report; <u>and</u></p> <p>(c) where necessary, the competent authority shall seek from the developer supplementary information, in accordance with Annex IV, which is directly relevant to reaching the reasoned conclusion on the significant effects of the project on the environment.</p> | <p>This is a new paragraph concerning the introduction of a quality control mechanism. It needs to be transposed into national legislation. Please note that it introduces a cumulative obligation meaning that provisions ensuring the implementation of points (a), (b) and (c) have to be envisaged in national transposing legislation. See also recital 33.</p> |

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| 6(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 and regional competences are given an opportunity to express their opinion on the information supplied by the developer and on the request for development consent, taking into account, where appropriate, the cases referred to in Article 8a(3). 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. | This paragraph recognizes local and regional authorities as important players in the EIA procedure <u>together</u> with the environmental authorities. It needs to be transposed into national legislation. |
| 6(2) | In order to ensure the effective participation of the public concerned in the decision-making procedures, the public shall be informed <u>electronically</u> and by public notices or by other appropriate means, of the following matters early in the environmental decision-making procedures referred to in Article 2(2) and, at the latest, as soon as information can reasonably be provided | "Electronically" is added to the wording of this paragraph. Amendments to national legislation may be needed depending on the wording in transposing legislation to reflect the amendment introduced. See also recital 18. |
| 6(5) | The detailed arrangements for informing the public, for example by bill posting within a certain radius or publication in local newspapers, and for consulting the public concerned, for example by written submissions or by way of a public inquiry, shall be determined by the Member States. <u>Member States shall take the necessary measures to ensure that the relevant information is electronically accessible to the public, through at least a central portal or easily accessible points of access, at the appropriate administrative level.</u> | The first sentence is identical to Art. 6(5) of 2011/92/EU and therefore it should already appear in national legislation. The second sentence is a new provision. It concerns the implementation of the Directive with regard to public participation in the decision-making process. It needs to be transposed into national legislation. See also recital 18. |
| 6(6) | Reasonable time-frames for the different phases shall be provided for, allowing sufficient time for: (a) informing the authorities referred to in paragraph 1 and the public; and (b) the authorities referred to in paragraph 1 and the public concerned to prepare and participate effectively in the environmental decision-making, subject to the provisions of this Article. | This is a new paragraph concerning setting of reasonable time frames for participation in the decision-making process. It needs to be transposed into national legislation by setting such time frames. Minimum and maximum time-frames will ensure legal certainty and avoid administrative burden to developers. See also recital 36. |
| 6(7) | The time-frames for consulting the public concerned on the environmental impact assessment report referred to in Article 5(1) shall not be shorter than 30 days. | This is a new paragraph setting minimum time frame for public consultations. It needs to be transposed into national legislation. See also recital 36. |

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| 7(4) | <p>The Member States concerned shall enter into consultations regarding, inter alia, the potential transboundary effects of the project and the measures envisaged to reduce or eliminate such effects and shall agree on a reasonable time- frame for the duration of the consultation period.</p> | <p>This sub-paragraph is identical to Art. 7(4) of 2011/92/EU and therefore it should already appear in national legislation.</p> |
| | <p>Such consultations may be conducted through an appropriate joint body.</p> | <p>This new sub-paragraph builds on implementation experience. Its application is optional and therefore it only needs to be transposed into national legislation if the Member State chooses to apply it. See also recital 4.</p> |
| 7(5) | <p>The detailed arrangements for implementing paragraphs 1 to 4 of this Article, <u>including the establishment of time-frames for consultations</u>, shall be determined by the Member States concerned, <u>on the basis of the arrangements and time-frames referred to in Article 6(5) to (7)</u>, and shall be such as to enable the public concerned in the territory of the affected Member State to participate effectively in the environmental decision-making procedures referred to in Article 2(2) for the project.</p> | <p>This paragraph is amended to reflect changes to Art. 6(5) to (7). It is very important for the correct implementation of the Directive with regard to transboundary consultations. It needs to be transposed into national legislation.</p> |
| 8 | <p>The results of consultations and the information gathered pursuant to Articles 5 to 7 shall be <u>duly</u> taken into account in the development consent procedure.</p> | <p>This paragraph is almost identical to Art. 8 of 2011/92/EU and therefore it should already appear in national legislation. Based on Art. 6(8) of the Aarhus Convention, "duly" is added to the text. Amendments to national legislation may be needed depending on the wording in transposing legislation.</p> |
| 8a(1) | <p>The decision to grant development consent shall incorporate at least the following information: (a) the reasoned conclusion referred to in Article 1(2)(g)(iv); (b) any environmental conditions attached to the decision, a description of any features of the project and/or measures envisaged to avoid, prevent or reduce and, if possible, offset significant adverse effects on the environment as well as, <u>where appropriate</u>, monitoring measures.</p> | <p>This new paragraph concerns the content of the positive development consent decision. It needs to be transposed into national legislation. Member States should foresee provisions with regard to mitigation, compensation and monitoring measures. On the monitoring measures see also recital 35 and Art. 8a(4).</p> |
| 8a(2) | <p>The decision to refuse development consent shall state the main reasons for the refusal.</p> | <p>This new paragraph concerning the content of a negative development consent decision is based on the case-law of the Court of Justice of the EU (C-87/02 and C-75/08) It needs to be transposed into national legislation.</p> |

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| 8a(3) | In the event Member States make use of the procedures referred to in Article 2(2) other than the procedures for development consent, the requirements of paragraphs 1 and 2 of this Article, as appropriate, shall be deemed to be fulfilled when any decision issued in the context of those procedures contains the information referred to in those paragraphs and there are mechanisms in place which enable the fulfilment of the requirements of paragraph 6 of this Article. | The application of this paragraph is optional and therefore it only needs to be transposed into national legislation if the Member State chooses to apply procedures referred to in Article 2(2) other than the procedures for development consent (Member States already applying this approach (non-exhaustive list) – Bulgaria, Poland, Lithuania, Italy, Romania). |
| 8a(4) | In accordance with the requirements referred to in paragraph 1(b), Member States shall ensure that the features of the project and/or measures envisaged to avoid, prevent or reduce and, if possible, offset significant adverse effects on the environment are implemented by the developer, and shall determine the procedures regarding the monitoring of significant adverse effects on the environment. | This new sub-paragraph concerning monitoring needs to be transposed into national legislation. See also recital 35 and Annex IV, p. 7. |
| The type of parameters to be monitored and the duration of the monitoring shall be proportionate to the nature, location and size of the project and the significance of its effects on the environment. | | |
| | Existing monitoring arrangements resulting from Union legislation other than this Directive and from national legislation may be used if appropriate, with a view to avoiding duplication of monitoring. | The application of this sub-paragraph is optional and therefore it only needs to be transposed into national legislation if the Member State chooses to apply existing monitoring arrangements. If the Member State opts for its application, it should clearly indicate which existing arrangements will be used. See also recital 35. |
| 8a(5) | Member States shall ensure that the competent authority takes any of the decisions referred to in paragraphs 1 to 3 within a reasonable period of time. | This is a new paragraph concerning setting of reasonable time frames for taking a development consent decision. It ensures legal and administrative certainty for developers and therefore Member States have to indicate in their national legislation which time frames are considered as reasonable periods of time (e.g. by setting explicit time limits). See also recital 36. |
| 8a(6) | The competent authority shall be satisfied that the reasoned conclusion referred to in Article 1(2)(g)(iv), or any of the decisions referred to in paragraph 3 of this Article, is still up to date when taking a decision to grant development | This is a new paragraph concerning the validity of EIA decisions. It needs to be transposed into national legislation. There are several ways of ensuring |

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| | consent. | this and the second sub-paragraph provides one possibility. |
| | To that effect, Member States may set time-frames for the validity of the reasoned conclusion referred to in Article 1(2)(g)(iv) or any of the decisions referred to in paragraph 3 of this Article. | The application of the second sub-paragraph is optional and therefore it only needs to be transposed into national legislation if the Member State chooses to set such time-frames. |
| 9(1) | When a decision to grant or refuse development consent has been taken, the competent authority or authorities shall <u>promptly</u> inform the <u>public and the authorities</u> referred to in Article 6(1) thereof, in accordance with the national procedures, and shall ensure that the following information is available to the public and to the authorities referred to in Article 6(1), taking into account, where appropriate, the cases referred to in Article 8a(3): (a) the content of the decision and any conditions attached thereto as referred to in Article 8a(1) and (2); (b) the main reasons and considerations on which the decision is based, including information about the public participation process. <u>This also includes the summary of the results of the consultations and the information gathered pursuant to Articles 5 to 7 and how those results have been incorporated or otherwise addressed, in particular the comments received from the affected Member State referred to in Article 7.</u> | This paragraph has been substantially revised. It needs to be transposed into national legislation. Based on Article 6(9) of the Aarhus Convention, "promptly" is added to the text. |
| 9a | Member States shall ensure that the competent authority or authorities perform the duties arising from this Directive 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, Member States shall at least implement, within their organisation of administrative competences, an appropriate separation between conflicting functions when performing the duties arising from this Directive. | This new article is based on the case-law of the Court of Justice of the EU (C-474/10). It needs to be transposed into national legislation, if not yet provided for in the national legal order, by ensuring appropriate separation with the administrative organisation. Please note that in its ruling on C-474/10 the Court of Justice of the EU ruled "[...] a functional separation [shall be] organised so that an administrative entity internal to it has real autonomy, meaning, in particular, that it is provided with administrative and human resources of its own and is thus in a position to fulfil the tasks entrusted [...]". See also recital 25. |
| 10 | <u>Without prejudice to Directive 2003/4/EC</u> , the provisions of this Directive shall not affect the obligation on the competent authorities to | This paragraph is almost identical to Art. 2(1) of 2011/92/EU and therefore it should already appear in |

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| | 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. | national legislation. "Without prejudice to Directive 2003/4/EC" is added to the text to ensure consistency. Possible amendments to national legislation may be needed depending on the wording in transposing legislation. |
| 10a | Member States shall lay down rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive. The penalties thus provided for shall be effective, proportionate and dissuasive. | This new article needs to be transposed into national legislation. See also recital 38. |
| 12(2) | In particular, every six years from 16 May 2017 Member States shall inform the Commission, where such data are available, of: (a) the number of projects referred to in Annexes I and II made subject to an environmental impact assessment in accordance with Articles 5 to 10; (b) the breakdown of environmental impact assessments according to the project categories set out in Annexes I and II; (c) the number of projects referred to in Annex II made subject to a determination in accordance with Article 4(2); (d) the average duration of the environmental impact assessment process; (e) general estimates on the average direct costs of environmental impact assessments, including the impact from the application of this Directive to SMEs. | This paragraph sets out a direct obligation for Member States by setting the provisions for reporting. As such, it does not need to be transposed into national legislation, but has to be complied with. |
| Annex II.A | Information referred to in article 4(4) (Information to be provided by the developer on the projects listed in annex II) | This Annex is new and therefore it needs to be transposed into national legislation. |
| Annex III | Selection criteria referred to in article 4(3) (Criteria to determine whether the projects listed in annex ii should be subject to an environmental impact assessment) | The substantial changes to the screening selection criteria require Member States to amend their national legislation. |
| Annex IV | Information referred to in article 5(1) (Information for the environmental impact assessment report) | The substantial changes to the information for the EIA report require Member States to amend their national legislation. Please note that only one non-technical summary (referred to under Art. 5(1) and Annex IV, p. 9) has to be included in the EIA report. |
| 2(1) (2014/52) | Without prejudice to Article 3, Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 16 May 2017. When Member States adopt those provisions, they shall contain a reference to this Directive or be | This paragraph sets out the basic rules for transposition and therefore it does not need to be transposed into national legislation, but it has to be complied with during the transposition process. |

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| | accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made. | |
| 2(2) (2014/52/EU) | Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive. | This paragraph sets out a direct obligation for Member States by setting the provisions for reporting. As such, it does not need to be transposed into national legislation, but MS shall ensure compliance with it. In accordance with recital 40, Member States accompany the notification of their transposition measures with one or more documents explaining the relationship between the Articles of the Directive and the corresponding parts of the national transposition instruments. |
| 3(1) (2014/52) | Projects in respect of which the determination referred to in Article 4(2) of Directive 2011/92/EU was initiated before 16 May 2017 shall be subject to the obligations referred to in Article 4 of Directive 2011/92/EU prior to its amendment by this Directive. | This paragraph sets out an explicit deadline for application of the Directive with regard to Annex II projects for which a screening determination has been formally requested before 16 May 2017. It needs to be transposed into national legislation. |
| 3(2) (2014/52/EU) | Projects shall be subject to the obligations referred to in Article 3 and Articles 5 to 11 of Directive 2011/92/EU prior to its amendment by this Directive where, before 16 May 2017: (a) the procedure regarding the opinion referred to in Article 5(2) of Directive 2011/92/EU was initiated; or (b) the information referred to in Article 5(1) of Directive 2011/92/EU was provided. | This paragraph sets out an explicit deadline for application of the Directive with regard to Annex I projects and "screened-in" Annex II projects for which: (a) a formal request for a scoping opinion under Art. 5(2) or (b) the formal submission of an EIA report took place before 16 May 2017. It needs to be transposed into national legislation. |
| 4 (2014/52) | This Directive shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> . | This article deals with the internal coherence of Union law and therefore does not need to be transposed into national legislation. |