



COM proposal for inclusion of the Environmental Impact Assessment (EIA) Directive, as amended

PHLG

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Developments with regard to the EIA Directive

- Directive 85/337/EEC has been further amended by Directive 2009/31/EC in order to include projects related to the geological storage of carbon dioxide. That amendment has not yet been incorporated in the legal framework of the Energy Community.
- Directive 2011/92/EU codified Directive 85/337/EEC and its amendments and repealed it with effect from 17 February 2012.
- Directive 2011/92/EU was amended by Directive 2014/52/EU with a view to simplify and improve environmental impact assessment procedures. Directive 2014/52/EU is already in force; deadline for transposition by Member States - 17 May 2017.

Proposed amendments to the ECT - 1

- in Article 16, point (i) is replaced by the following:
“(i) Directive 2011/92/EU [...] as amended by Directive 2014/52/EU,”
- in Annex II, point 1 is replaced by the following:
"1. Each Contracting Party shall implement Directive 2011/92/EU [...] by xxx [*date of the entry into force of the Decision*]. Each Contracting Party shall implement Directive 2014/52/EU by 1 January 2019, with the exception of the provisions referring to Directives not covered by Article 16 of this Treaty."

Proposed amendments to the ECT - 2

- Directives covered by Directive 2011/92/EU as amended by Directive 2014/52/EU but not covered by the ETC include SEA, Habitats, Water and Waste Framework and Seveso Directives.
- Deadlines for complying:
 - ✓ 2011/92/EU - date of the entry into force of the Decision;
 - ✓ 2014/52/EU – 1 January 2019 .

Proposed amendments to the ECT - 3

- In case of projects of Energy Community interest, the Contracting Party in whose territory the project is intended to be carried out shall send the following information to the Secretariat as soon as possible and no later than when informing its own public:
 - (a) a description of the project, together with any available information on its impacts on the environment;
 - (b) information on the nature of the decision which may be taken for authorisation of the project.
- The Secretariat shall ensure that the environmental impact assessments of the projects referred to in paragraph 1 of this Article fulfil the requirements of Directive 2011/92/EU as amended by Directive 2014/52/EU.

Changes introduced by 2014/52/EU - 1

Screening

- Justification of the screening decision

Time-frames introduced for key steps of the process:

- screening: max 90 days;
- public consultation on the EIA report: min 30 days;
- final decision: reasonable time-frame.

New elements in the EIA Report

- Adaptation to new environmental issues, such as climate change and biodiversity.
- Reasonable alternatives (relevant to the project and its specific characteristics), including baseline scenario.
- Cumulative impacts (with other existing or approved projects).
- Thorougher description of mitigation and compensation measures, as well as introduction of monitoring.



Changes introduced by 2014/52/EU - 2

- Quality control mechanism of the report:
 - ✓ shared responsibility of the developer and of the competent authority.
- Enhanced public participation:
 - ✓ information to be available on a central portal.
- Monitoring measures (only for projects with significant & adverse env. effects)
- Rules to avoid on conflict of interests
- EIA 'one-stop shop' (i.e. coordinated/integrated assessment procedure) – in practice not applicable for projects under ECT unless Contracting parties decide to go for it. Requirements for EU MS:
 - ✓ Mandatory: for assessments under EIA and/or Habitats/Birds Directives
 - ✓ Optional: for assessments under EIA and other Union legislation (e.g. SEA, Water Framework, IED, Waste Framework, Seveso).

Indicate timing for transposition by Contracting Parties of Directive 2014/52/EU already communicated to COM

- Serbia – 2017
- Montenegro - 2018