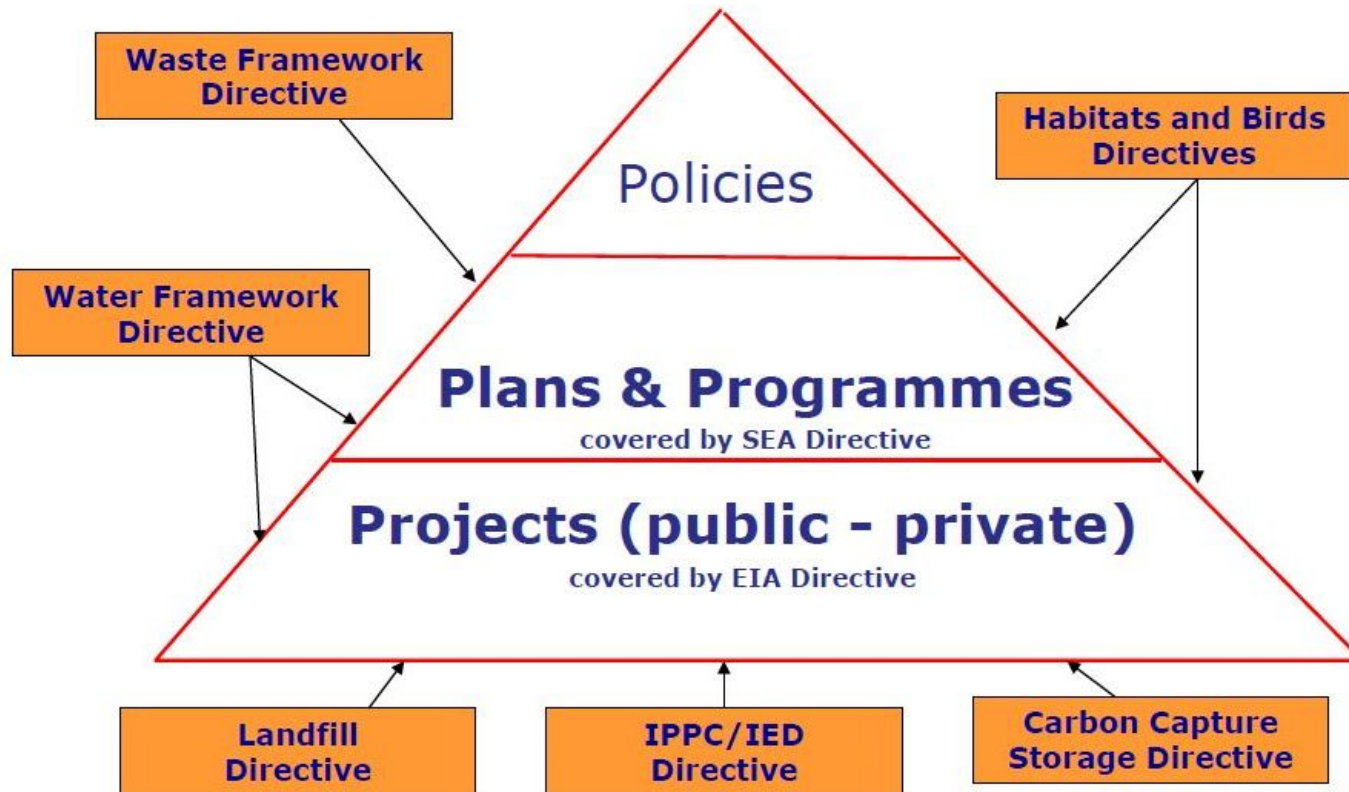
The background is a dark blue image of the Earth from space, showing the continents. Overlaid on the map are numerous glowing blue lines that represent energy transmission or data flow. These lines are curved and interconnected, creating a complex network across the globe.

*Guidelines on
environmental
assessments of
hydropower projects*

- *Hydropower projects in the region*
- *Targets on renewables*
- *Public opposition / complaints*
- *Podgorica Ministerial meeting and conclusions / sustainability principles*
- *Sustainability Forum on 27 June*

Environmental Assessments



Definition of “plan and programme”

Art. 2(a) SEAD:

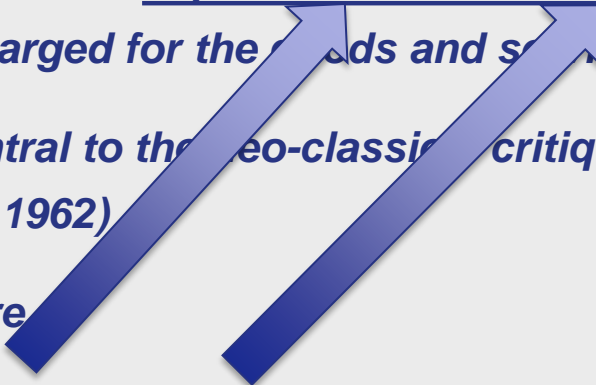
‘plans and programmes’ shall mean plans and programmes, including those co-financed by the European Community, as well as any modifications to them:

- which are subject to preparation and/or adoption by an authority at national, regional or local level or which are prepared by an authority for adoption, through a legislative procedure by Parliament or Government, and***
- which are required by legislative, regulatory or administrative provisions***

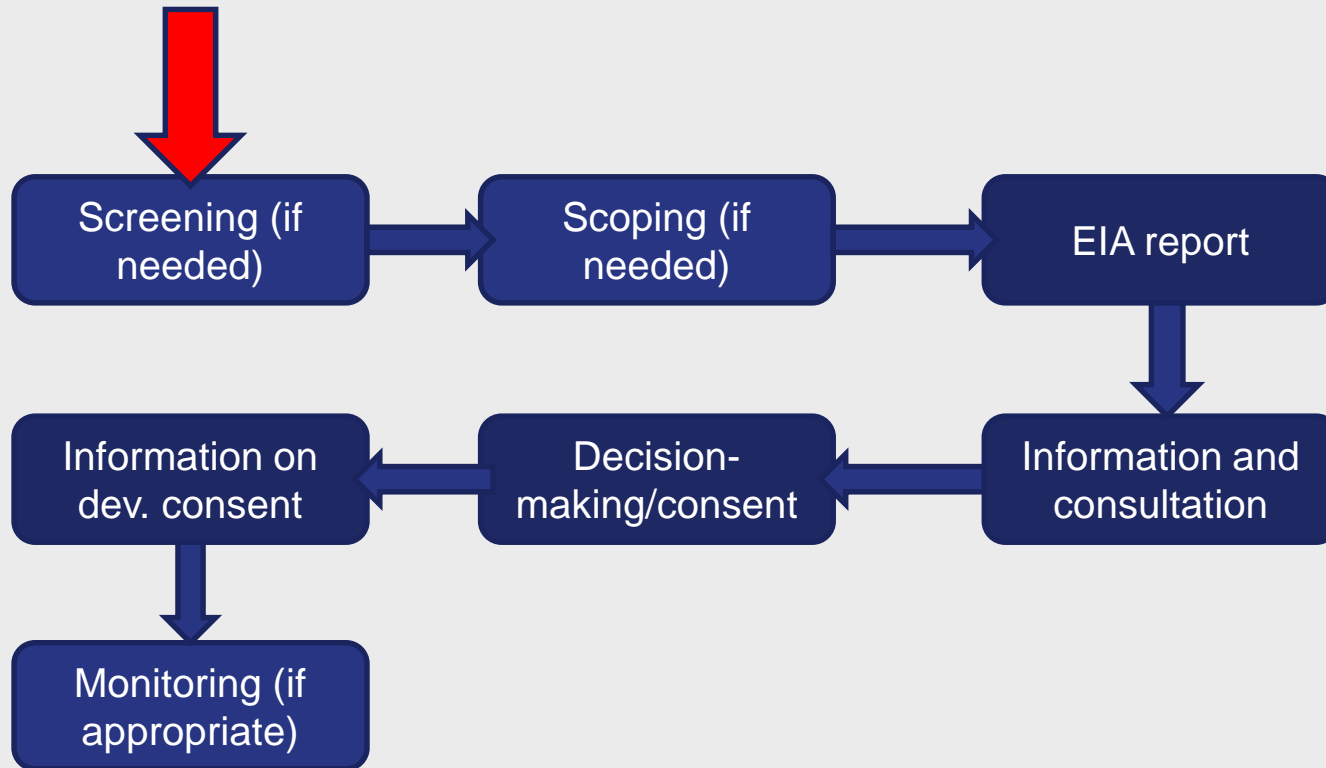
Plans and programmes that always require SEA are those:

- ✓ ***prepared for agriculture, forestry, fisheries, energy, industry, transport, waste/water management, telecommunications, tourism, town & country planning or land use AND which set the framework for future development consent of projects listed in the EIA Directive (Art. 3(2))***
- ✓ ***which have been determined to require an assessment under **Articles 6 or 7 of the Habitats Directive.*****
- ✓ ***Plans and programmes co-financed by the EU***
- ✓ ***Modifications of plans and programmes.***

EIA – project level

- **“Externalities are changes in the condition or circumstances of institutional units caused by the economic actions of other units without the consent of the former.” (UN Statistics Division, System of National Accounts 1993)**
 - **“Externalities refers to situations when the effect of production or consumption of goods and services imposes costs or benefits on others which are not reflected in the prices charged for the goods and services being provided.” (OECD)**
 - **Concept central to the neo-classical critique of market organisation (Buchanan-Stubblebine, 1962)**
 - **Market failure**
 - **Can be negative or positive**
- 
- Two blue arrows pointing upwards and to the right, starting from the bottom left and pointing towards the text of the second bullet point.

The EIA process



- ***Annex II.3 (Energy Industry), point h: „Installations for hydroelectric energy production“***

- ***Link to Art. 4(2)***

Subject to Article 2(4), for projects listed in Annex II, Contracting Parties shall determine whether the project shall be made subject to an assessment in accordance with Articles 5 to 10. Contracting Parties shall make that determination through:

(a) a case-by-case examination; or

(b) thresholds or criteria set by the Contracting Party.

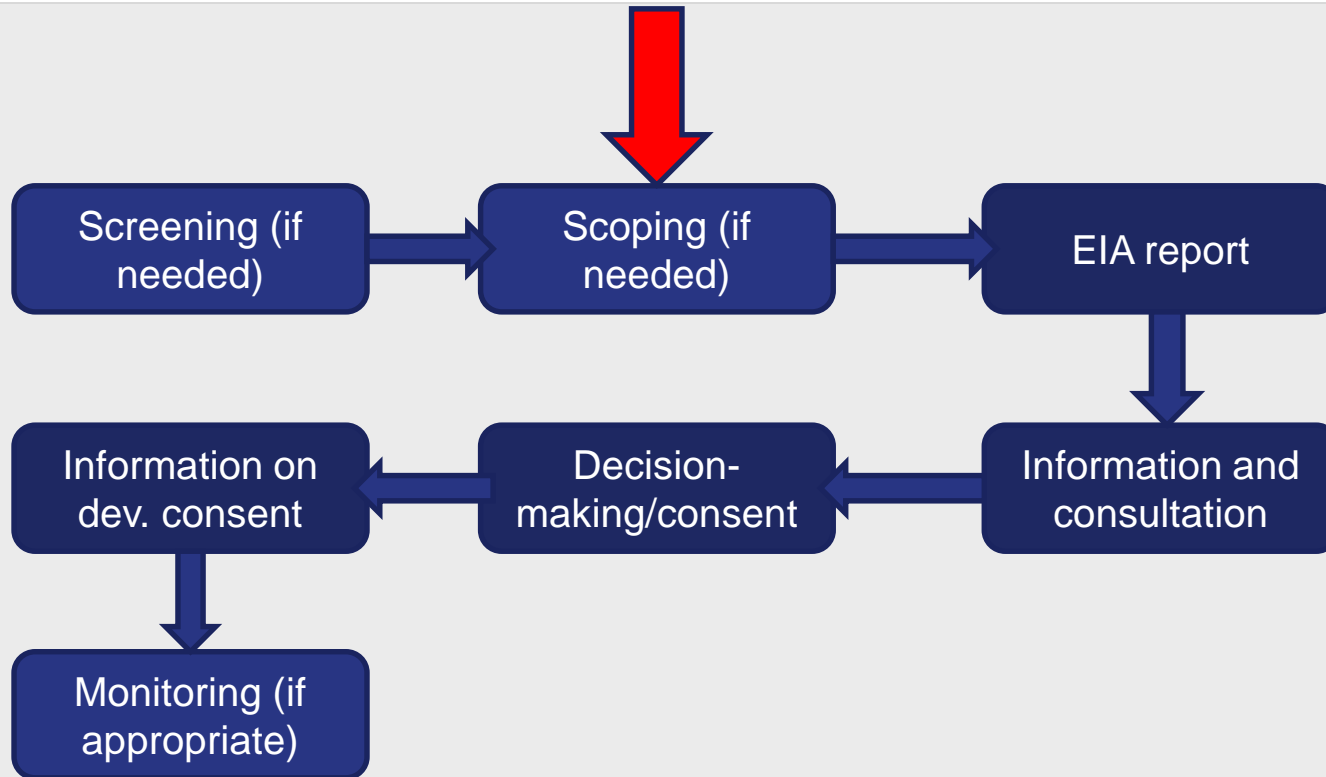
Contracting Parties may decide to apply both procedures referred to in points (a) and (b).

- ***Art. 4(3) → reference to Annex III (screening criteria)***

The use of the screening criteria

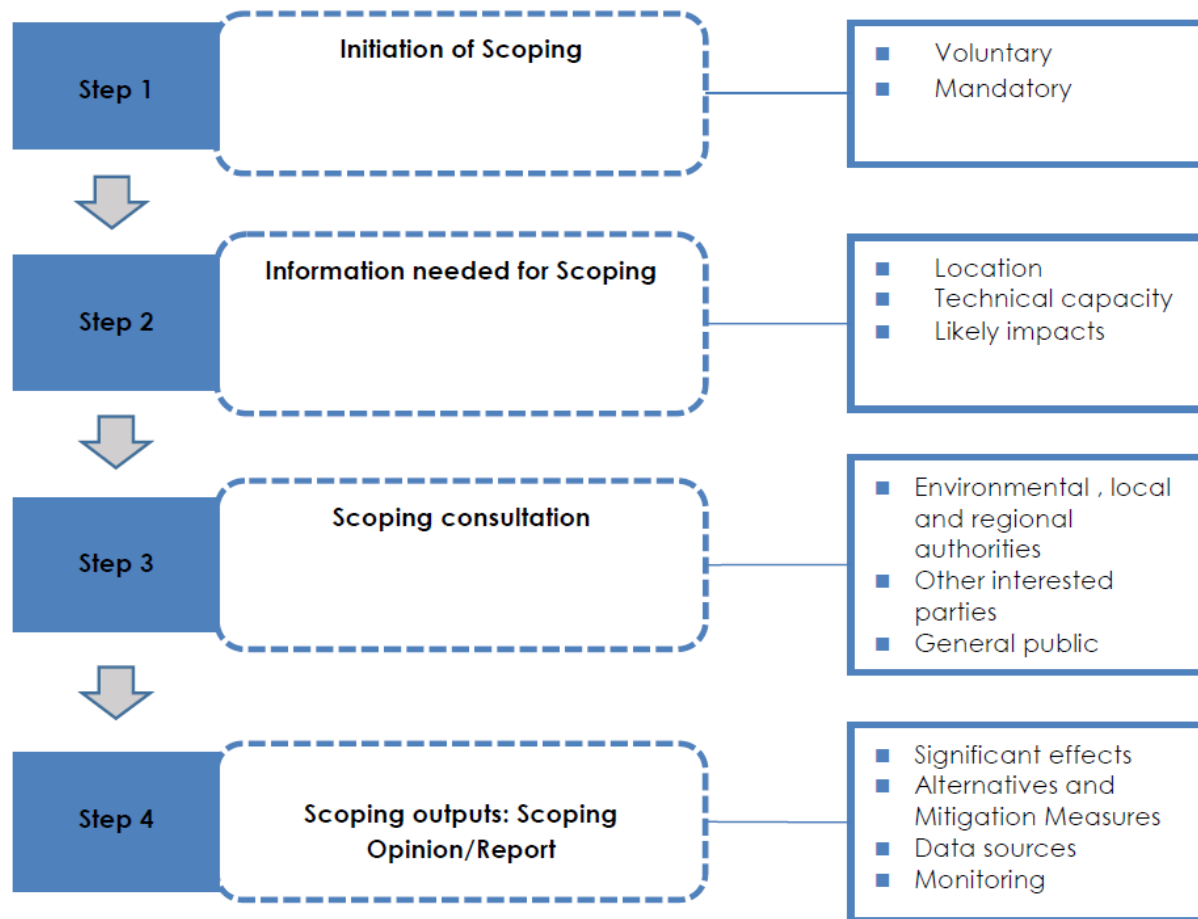
- ***Usual “solution” in transposing legislation: establishment of a 2 or 5 MW threshold above which EIA is mandatory and below, nothing is required***
- ***Annex III contains a set of elements to be taken into account when carrying out the screening***
- ***Using the threshold only may not be sufficient to cover all cases, especially with regard to the appropriate assessment***

The EIA process



- **Art. 5(2) EIAD**
- **“Risk reduction” tool**
- **Early in the process**
- **Can be voluntary (as a minimum) or mandatory depending on transposing legislation**
- **Competent authority / independent body – EIA Commission (e.g. NL, FR) / expert panel (e.g. CY, IT)**
- **Output: scoping report / opinion**
- **COM scoping guidelines (2017):**
http://ec.europa.eu/environment/eia/pdf/EIA_guidance_Scoping_final.pdf

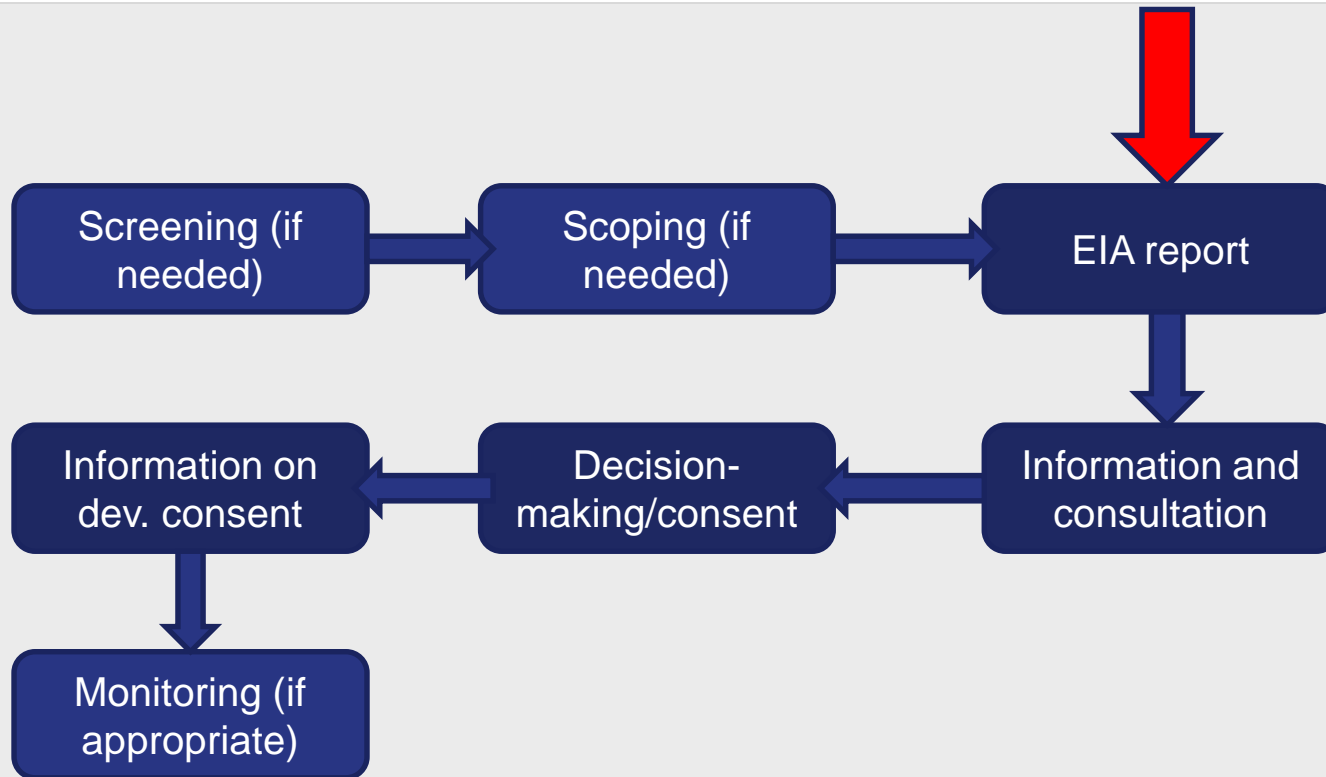
The process of scoping



The result of scoping

- ***Scoping report (“ToR” for the EIA report)***
- ***Scoping should continue throughout the process***
- ***Amendments in light of new issues and new information***
- ***Scope of an EIA Report must be flexible enough to allow the incorporation of new issues***
- ***EIAD allows competent authorities to request additional information at a later stage in the EIA process, even where they did not request this information when they issued a formal Scoping Opinion.***

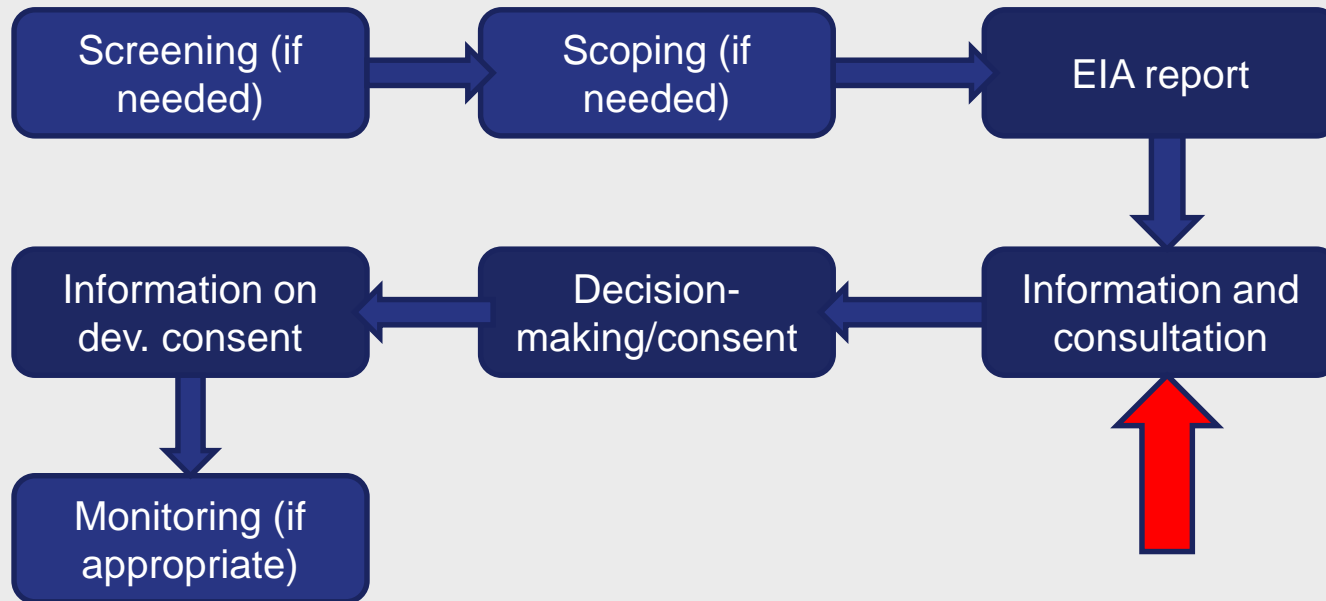
The EIA process



- **Mandatory part of an EIA report (Art. 5(1) d) EIAD + Annex IV, point 2) → broadened in 2014**
- **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;**
- **Can take diverse forms (exemplary list of Annex IV: project design, technology, location, size and scale)**

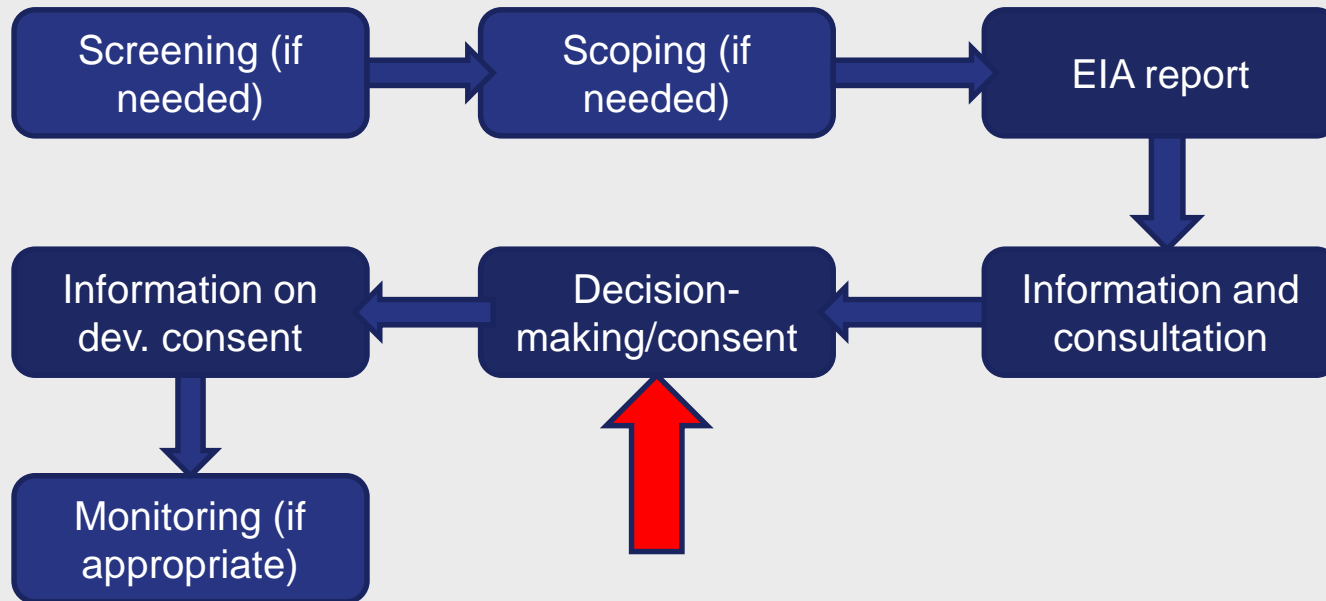
- *Often a difficult element in the process (no specification of number or nature of alternatives by EIAD)*
- *Not to be confused with SEA*
- *Method: depends on the type of alternative (has to provide a comparative assessment of environmental impacts)*
- *“Do nothing” scenario vs “reasonable alternatives”*
- *Obstacles to certain alternatives:*
 - technological*
 - budgetary*
 - stakeholder*
 - regulatory*

The EIA process



- *The public shall be given early and effective opportunities to participate in the decision-making*
- *Electronically / public notices / other appropriate means*
- *Art. 6(2) and 6(3) specifies the information that has to be made available to the public*
- *Reasonable timeframes to be provided by national legislation*
- *Transboundary elements in relation to Art. 7*

The EIA process



Development consent decision/the reasoned conclusion

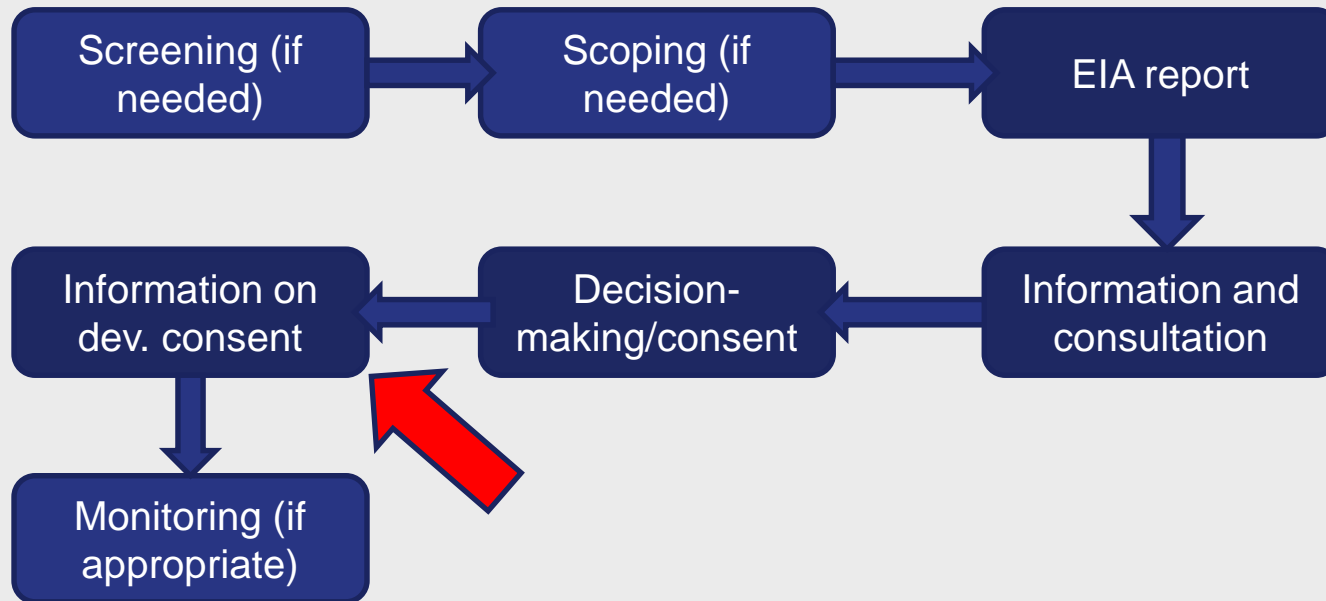


Art. 1(2) (c) EIAD: ‘development consent’ means the decision of the competent authority or authorities which entitles the developer to proceed with the project;

Art. 1(2) (g) (definition of EIA) → amended by 2014/52/EU based on case-law (C-50/09)

Art. 1(2) (g) EIAD, (iii) and (iv) (elements of an EIA): 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 the integration of the competent authority's reasoned conclusion into any of the decisions referred to in Article 8a.

The EIA process



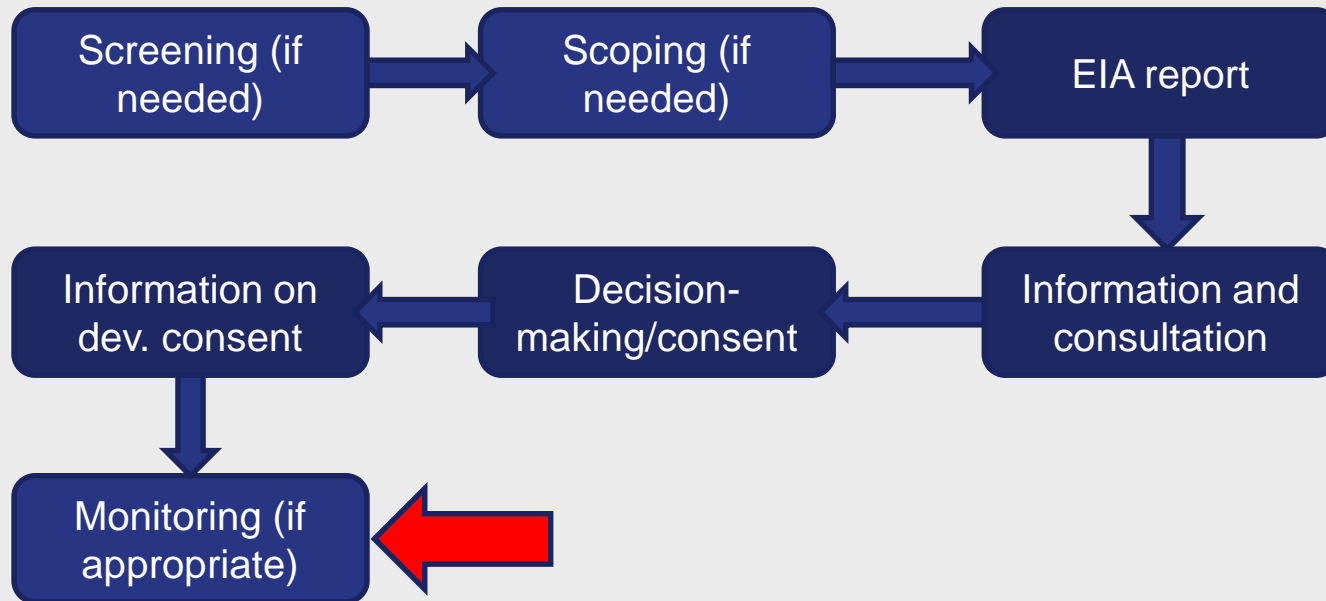
- ***Obligation to inform the public and relevant (environmental and local/regional) authorities promptly***
- ***Obligation to make available to the public relevant (environmental and local/regional) authorities specific information:***

Content of the final decision

Main reasons

- ***NEW (2014): 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(s) / CPs, shall be made available as well.***

The EIA process



- *When significant adverse effects were identified in the EIA*
- *To be included in development consent / EIA report*
- *Avoiding duplications → use of existing monitoring systems*

2012 Impact Assessment for the review of the EIA Directive estimated that 50% of Projects developed each year would fall under other EU legislation requiring monitoring, and thus monitoring would be carried out regardless of EIA requirements

Policy guidelines - outline

- **Legal Framework in Energy Community acquis**
 - **Relationship between EIA and SEA Directives**
 - **Required Procedure for Environmental Impact Assessment Report (Art. 5)**
 - **Requirement of Public Participation in the EIA**
- Directive**
- **Direct and Indirect Effects of Environmental Issues and Impact Considerations**
 - **Transboundary Effects**
 - **Decision to Approve/Deny the Project**
 - **Access to Review Procedure (Art. 11)**
- **Role of the EnC in Complying with the EIA and SEA Directives**

The background is a satellite-style image of the Earth, showing the continents of Europe and Africa. Overlaid on this image are numerous glowing blue lines that represent energy transmission or a network. These lines are curved and connect various points across the globe, creating a sense of global connectivity and energy flow.

*Thank you
for your attention!*

www.energy-community.org