



**EIA DIRECTIVE  
AMENDMENT –  
EUROPEAN PARLIAMENT'S  
VIEWS**

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Position of the European Parliament expressed in the **draft report of 11 April 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*

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## **Outline of the main EP amendments to the EC proposal**

- I. Amendments to the administrative framework of the EIA
- II. Amendments intended to increase the quality of the EIA
- III. Amendments strengthening post-EIA obligations
- IV. Amendments streamlining access to information and strengthening public involvement
- V. Amendments referring to non-conventional hydrocarbons

## I. Amendments to the administrative framework of the EIA process (1)

- (1) MS to be assisted by the EC in effective organisation of coordinated or joint procedures of environmental assessments required under EIA Directive and other legislation (“one stop shop”)

*“Under the coordinated procedure, the competent authority shall coordinate the various individual assessments required by the Union legislation concerned and issued by **various** authorities” (amdt 17)*

*“The Commission shall cooperate with the Member States and provide them with the necessary assistance in order to define and implement the coordinated or joint procedures” (amdt 18).*

## I. Amendments to the administrative framework of the EIA process (2)

### (2) Timeframe for the EIA to be concluded can be extended in exceptional cases only

“The competent authority may, ***exceptionally***, extend that deadline by a further 3 months” (amdt 42)

### (3) Significant adverse environmental effects of the project as the premise for not granting development consent

Should the project have significant adverse environmental effects, the competent authority “*shall consider whether to refuse development consent*” (amdt 37, amdt 44)

## II. Amendments intended to increase the quality of the EIA process (1)

### 1. „Full” independence of competent authority

- **Assuring full independence of the competent authority**

*“assuring full independence in the performance of the duties assigned to them”* (amdt 16)

- **Avoidance of conflict of interests between the developer and the competent authority**

*“the competent authorities should not coincide with the developer nor in any way be dependent on, linked to or subordinate to the developer”* (amdt 2, 16)

- **Strict separation between competent authority and project to be subject to EIA**

*“the authority that has been designated as a competent authority (...) should not be able to play that role in relation to projects (...) which the authority has itself commissioned”* (amdt 2, 16)

## II. Amendments intended to increase the quality of the EIA process (2)

### 2. „Absolute” independence of experts

*“experts carry out the tasks (...) in total independence from the developer and the competent authorities” (amdt 5)*

*“experts and committees of national experts must provide appropriate guarantees of impartiality (...) ensuring that their assessment is scientifically objective and independent” (amdt 32)*

## II. Amendments intended to increase the quality of the EIA process (3)

### 3. Technical competence of experts

*“experts have, due to their qualifications and experience, the necessary technical expertise” (amdt 5)*

*“technically competent experts and committees of national experts must provide appropriate guarantees of (...) competence” (amdt 32)*



## II. Amendments intended to increase the quality of the EIA process (4)

### 4. However, removal of the obligation to establish experts' accreditation system

Justification: “*would involve considerable implementation difficulties for the MS and for economic operators*” (amdt 28, amdt 29, amdt 30, amdt 31)

### 5. Project to be considered and assessed in detail, comparative assessment of alternatives

“*the environmental impact assessment shall (...) describe **in detail** (..) the direct and indirect significant effects of the project, **considered in its entirety**” (amdt 20, amdt 24, amdt 35, amdt 60)*

“**comparative** assessment (...) in order to enable the most suitable choice, with the least environmental impact, to be made” (amdt 3) “**comparative assessment of the various solutions proposed**” (amdt 26)

## II. Amendments intended to increase the quality of the EIA process (5)

- 6. Removal of reference to environmental assessments carried out at different levels (incl. planning level) or by different instruments (amdt 4, amdt 25)**

EC: *“with a view to avoiding duplication of the assessment”* – EP justification *“developers must be prevented from excluding the (...) alternatives to the proposed project simply on the ground that the assessment of alternatives was supposed to have been conducted at the planning stage”*

## **II. Amendments intended to increase the quality of the EIA process (6)**

### **7. Limited validity of information gathered during the EIA**

*“If, within five years of the environmental impact assessment, a project has not been implemented, the information set out in the environmental assessment must be updated” (amdt 43)*

### **8. Penalties**

*“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” (amdt 46)*

### III. Amendments strengthening post-EIA obligations (1)

#### 1. Ex-post monitoring

*“development consent includes measures to monitor the significant adverse environmental effects, **during the implementation and management stages**” (amdt 39)*

#### 2. Developer’s obligation to remedy unforeseen adverse effects of the project

*“where the outcome of the monitoring indicates the presence of unforeseen adverse effects (...) appropriate corrective action to remedy the problem, in the form of additional mitigation and/or compensation measures” (amdt 6, amdt 41)*

## **IV. Amendments streamlining access to information and strengthening public involvement (1)**

### **1. Information to be provided via public notices AND Internet**

*“public shall be informed, by public notices ~~or~~ **AND** by other appropriate means such as electronic media” (amdt 33)*

### **2. Facilitating access to the information during the EIA procedure (to be available in the vicinity of the project and at the office of the competent authority**

Art. 6 para. 2 point 6 of the Directive “an indication of the times and places at which, and the means by which, the relevant information will be made available” to be supplemented with “***providing the opportunity for the public concerned to obtain information also in places near the area of implementation of the project as well as in the offices responsible under the competent authority***”

## **IV. Amendments streamlining access to information and strengthening public involvement (2)**

### **3. Revision of environmental report results in the obligation to provide information to the public**

*“At the revision stage of the environmental report (...) the information to the public referred to in Article 6(2) must nonetheless be guaranteed” (amdt 38)*

### **4. Results of ex-post monitoring to be available to the public**

*“The results of the monitoring shall be notified to the competent authority and made available to the public” (amdt 40)*

## **IV. Amendments streamlining access to information and strengthening public involvement (3)**

### **5. Exemption of a project from obligations laid down in the EIA Directive**

Obligation to “*consult the public concerned*” (amdt 19)

### **6. Extension of the 3-month deadline for the issuance of the development consent**

The obligation “*make available to the public the information referred to in Article 6(2)*” (amdt 24)

### **7. Compliance with Directive 2003/4/EC on access to information, public participation in decision-making and access to justice in environmental matters must be assured at all times (amdt 45)**

## V. Amendments referring to non-conventional hydrocarbons

### Shale gas in Annex I – both exploration and extraction

*“in accordance with precautionary principle (...) appropriate to include non-conventional hydrocarbons (...) in Annex I (...) regardless of the amount extracted”*

*Annex I “14a. Exploration, evaluation 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 and extraction of natural gas from coal beds, regardless of the amount extracted” (amdt 8, amdt 50)*