

Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (Text with EEA relevance)

DIRECTIVE 2014/52/EU OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL

of 16 April 2014

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

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee⁽¹⁾,

Having regard to the opinion of the Committee of the Regions⁽²⁾,

Acting in accordance with the ordinary legislative procedure⁽³⁾,

Whereas:

- (1) Directive 2011/92/EU of the European Parliament and of the Council⁽⁴⁾ has harmonised the principles for the environmental impact assessment of projects by introducing minimum requirements, with regard to the type of projects subject to assessment, the main obligations of developers, the content of the assessment and the participation of the competent authorities and the public, and it contributes to a high level of protection of the environment and human health. Member States are free to lay down more stringent protective measures in accordance with the Treaty on the Functioning of the European Union (TFEU).
- (2) The Commission Communication of 30 April 2007, entitled ‘The mid-term review of the sixth Community Environment Action Programme’ and the Report from the Commission of 23 July 2009 on the application and effectiveness of Council Directive 85/337/EEC⁽⁵⁾, the predecessor to Directive 2011/92/EU, stressed the need to improve the principles of environmental impact assessment of projects, and to adapt Directive 85/337/EEC to the policy, legal and technical context, which has evolved considerably.
- (3) It is necessary to amend 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

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and policies, as well as strategies and policies developed by Member States in areas of national competence.

- (4) In order to coordinate and facilitate the assessment procedures for cross-border projects, and, in particular, to conduct consultations in accordance with the Convention on Environmental Impact Assessment in a Transboundary Context of 25 February 1991 (Espoo-Convention), the Member States concerned may set up, on the basis of equal representation, a joint body.
- (5) The mechanisms set out in Regulations (EU) No 347/2013⁽⁶⁾, (EU) No 1315/2013⁽⁷⁾ and (EU) No 1316/2013⁽⁸⁾ of the European Parliament and of the Council, which are relevant for Union co-financed infrastructure projects, may also facilitate the implementation of the requirements of Directive 2011/92/EU.
- (6) Directive 2011/92/EU should also be revised in a way that ensures that environmental protection is improved, resource efficiency increased and sustainable growth supported in the Union. To this end, the procedures it lays down should be simplified and harmonised.
- (7) Over the last decade, environmental issues, such as resource efficiency and sustainability, biodiversity protection, climate change, and risks of accidents and disasters, have become more important in policy making. They should therefore also constitute important elements in assessment and decision-making processes.
- (8) In its Communication of 20 September 2011 entitled ‘Roadmap to a Resource Efficient Europe’, the Commission committed itself to including broader resource efficiency and sustainability considerations in the context of the revision of Directive 2011/92/EU.
- (9) The Commission Communication of 22 September 2006 entitled ‘Thematic Strategy for Soil Protection’ and the Roadmap to a Resource-Efficient Europe underline the importance of the sustainable use of soil and the need to address the unsustainable increase of settlement areas over time (‘land take’). Furthermore, the final document of the United Nations Conference on Sustainable Development held in Rio de Janeiro on 20-22 June 2012 recognises the economic and social significance of good land management, including soil, and the need for urgent action to reverse land degradation. Public and private projects should therefore consider and limit their impact on land, particularly as regards land take, and on soil, including as regards organic matter, erosion, compaction and sealing; appropriate land use plans and policies at national, regional and local level are also relevant in this regard.
- (10) The United Nations Convention on Biological Diversity (‘the Convention’), to which the Union is party pursuant to Council Decision 93/626/EEC⁽⁹⁾, requires assessment, as far as possible and as appropriate, of the significant adverse effects of projects on biological diversity, which is defined in Article 2 of the Convention, with a view to avoiding or minimising such effects. Such prior assessment of those effects should contribute to attaining the Union headline target adopted by the European Council in its conclusions of 25-26 March 2010 of halting biodiversity loss and the degradation of ecosystem services by 2020 and restoring them where feasible.

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- (11) The measures taken to avoid, prevent, reduce and, if possible, offset significant adverse effects on the environment, in particular on species and habitats protected under Council Directive 92/43/EEC⁽¹⁰⁾ and Directive 2009/147/EC of the European Parliament and of the Council⁽¹¹⁾, should contribute to avoiding any deterioration in the quality of the environment and any net loss of biodiversity, in accordance with the Union's commitments in the context of the Convention and the objectives and actions of the Union Biodiversity Strategy up to 2020 laid down in the Commission Communication of 3 May 2011 entitled 'Our life insurance, our natural capital: an EU biodiversity strategy to 2020'.
- (12) With a view to ensuring a high level of protection of the marine environment, especially species and habitats, environmental impact assessment and screening procedures for projects in the marine environment should take into account the characteristics of those projects with particular regard to the technologies used (for example seismic surveys using active sonars). For this purpose, the requirements of Directive 2013/30/EU of the European Parliament and of the Council⁽¹²⁾ could also facilitate the implementation of the requirements of this Directive.
- (13) Climate change will continue to cause damage to the environment and compromise economic development. In this regard, it is appropriate to assess the impact of projects on climate (for example greenhouse gas emissions) and their vulnerability to climate change.
- (14) Following the Commission Communication of 23 February 2009 entitled 'A Community approach on the prevention of natural and man-made disasters', the Council, in its conclusions of 30 November 2009, invited the Commission to ensure that the implementation, review and further development of Union initiatives, take into consideration disaster risk prevention and management concerns as well as the United Nations Hyogo Framework for Action Programme (2005-2015) adopted on 22 January 2005, which stresses the need to put in place procedures for assessment of the disaster risk implications of major infrastructure projects.
- (15) In order to ensure a high level of protection of the environment, precautionary actions need to be taken for certain projects which, because of their vulnerability to major accidents, and/or natural disasters (such as flooding, sea level rise, or earthquakes) are likely to have significant adverse effects on the environment. For such projects, it is important to consider their vulnerability (exposure and resilience) to major accidents and/or disasters, the risk of those accidents and/or disasters occurring and the implications for the likelihood of significant adverse effects on the environment. In order to avoid duplications, it should be possible to use any relevant information available and obtained through risk assessments carried out pursuant to Union legislation, such as Directive 2012/18/EU of the European Parliament and the Council⁽¹³⁾ and Council Directive 2009/71/Euratom⁽¹⁴⁾, or through relevant assessments carried out pursuant to national legislation provided that the requirements of this Directive are met.
- (16) For the protection and promotion of cultural heritage comprising urban historical sites and landscapes, which are an integral part of the cultural diversity that the Union is

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committed to respecting and promoting in accordance with Article 167(4) TFEU, the definitions and principles developed in relevant Council of Europe Conventions, in particular the European Convention for the Protection of the Archaeological Heritage of 6 May 1969, the Convention for the Protection of the Architectural Heritage of Europe of 3 October 1985, the European Landscape Convention of 20 October 2000, the Framework Convention on the Value of Cultural Heritage for Society of 27 October 2005 can be useful. In order to better preserve historical and cultural heritage and the landscape, it is important to address the visual impact of projects, namely the change in the appearance or view of the built or natural landscape and urban areas, in environmental impact assessments.

- (17) When applying Directive 2011/92/EU, it is necessary to ensure smart, sustainable and inclusive growth, in line with the objectives set out in the Commission's Communication of 3 March 2010 entitled 'Europe 2020 — A strategy for smart, sustainable and inclusive growth'.
- (18) With a view to strengthening public access to information and transparency, timely environmental information with regard to the implementation of this Directive should also be accessible in electronic format. Member States should therefore establish at least a central portal or points of access, at the appropriate administrative level, that allow the public to access that information easily and effectively.
- (19) Experience has shown that in cases of projects, or parts of projects, serving defence purposes, including projects related to activities by allied forces on the territory of Member States in accordance with international obligations, the application of Directive 2011/92/EU could result in the disclosure of relevant confidential information which would undermine defence purposes. Provision should therefore be made to authorise Member States not to apply that Directive in such cases, where appropriate.
- (20) Experience has shown that, as regards projects having as their sole purpose the response to cases of civil emergency, compliance with Directive 2011/92/EU could have adverse effects, inter alia, on the environment, and provision should therefore be made to authorise Member States not to apply that Directive in such cases, where appropriate.
- (21) Member States have several options for implementing Directive 2011/92/EU as regards the integration of environmental impact assessments into national procedures. Accordingly, the elements of those national procedures can vary. Due to this fact, the reasoned conclusion by which the competent authority finalises its examination of the environmental impact of the project may be part of an integrated development consent procedure or may be incorporated in another binding decision required in order to comply with the aims of this Directive.
- (22) In order to ensure a high level of protection of the environment and human health, screening procedures and environmental impact assessments should take account of the impact of the whole project in question, including, where relevant, its subsurface and underground, during the construction, operational and, where relevant, demolition phases.

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- (23) With a view to reaching a complete assessment of the direct and indirect effects of a project on the environment, the competent authority should undertake an analysis by examining the substance of the information provided by the developer and received through consultations, as well as considering any supplementary information, where appropriate.
- (24) In the case of projects adopted by a specific act of national legislation, Member States should ensure that the objectives of this Directive relating to public consultation are achieved through the legislative process.
- (25) The objectivity of the competent authorities should be ensured. Conflicts of interest could be prevented by, inter alia, a functional separation of the competent authority from the developer. In cases where the competent authority is also the developer, Member States should at least implement, within their organisation of administrative competences, an appropriate separation between conflicting functions of those authorities performing the duties arising from Directive 2011/92/EU.
- (26) In order to enable the competent authority to determine whether projects listed in Annex II to Directive 2011/92/EU, their changes or extensions, are to be subject to an environmental impact assessment (screening procedure), the information which the developer is required to supply should be specified, focussing on the key aspects that allow the competent authority to make its determination. That determination should be made available to the public.
- (27) The screening procedure should ensure that an environmental impact assessment is only required for projects likely to have significant effects on the environment.
- (28) The selection criteria laid down in Annex III to Directive 2011/92/EU, which are to be taken into account by the Member States in order to determine which projects are to be subject to environmental impact assessment on the basis of their significant effects on the environment, should be adapted and clarified. For instance, experience has shown that projects using or affecting valuable resources, projects proposed for environmentally sensitive locations, or projects with potentially hazardous or irreversible effects are often likely to have significant effects on the environment.
- (29) When determining whether significant effects on the environment are likely to be caused by a project, the competent authorities should identify the most relevant criteria to be considered and should take into account information that could be available following other assessments required by Union legislation in order to apply the screening procedure effectively and transparently. In this regard, it is appropriate to specify the content of the screening determination, in particular where no environmental impact assessment is required. Moreover, taking into account unsolicited comments that might have been received from other sources, such as members of the public or public authorities, even though no formal consultation is required at the screening stage, constitutes good administrative practice.
- (30) In order to improve the quality of an environmental impact assessment, to simplify the procedures and to streamline the decision-making process, the competent authority should, where requested by the developer, issue an opinion on the scope and level of

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detail of the environmental information to be submitted in the form of an environmental impact assessment report ('scoping').

- (31) The environmental impact assessment report to be provided by the developer for a project should include a description of reasonable alternatives studied by the developer which are relevant to that project, including, as appropriate, an outline of the likely evolution of the current state of the environment without implementation of the project (baseline scenario), as a means of improving the quality of the environmental impact assessment process and of allowing environmental considerations to be integrated at an early stage in the project's design.
- (32) Data and information included by the developer in the environmental impact assessment report, in accordance with Annex IV to Directive 2011/92/EU, should be complete and of sufficiently high quality. With a view to avoiding duplication of assessments, the results of other assessments under Union legislation, such as Directive 2001/42/EC of the European Parliament and the Council⁽¹⁵⁾ or Directive 2009/71/Euratom, or national legislation should, where relevant and available, be taken into account.
- (33) Experts involved in the preparation of environmental impact assessment reports should be qualified and competent. Sufficient expertise, in the relevant field of the project concerned, is required for the purpose of its examination by the competent authorities in order to ensure that the information provided by the developer is complete and of a high level of quality.
- (34) With a view to ensuring transparency and accountability, the competent authority should be required to substantiate its decision to grant development consent in respect of a project, indicating that it has taken into consideration the results of the consultations carried out and the relevant information gathered.
- (35) Member States should ensure that mitigation and compensation measures are implemented, and that appropriate procedures are determined regarding the monitoring of significant adverse effects on the environment resulting from the construction and operation of a project, inter alia, to identify unforeseen significant adverse effects, in order to be able to undertake appropriate remedial action. Such monitoring should not duplicate or add to monitoring required pursuant to Union legislation other than this Directive and to national legislation.
- (36) In order to stimulate more efficient decision-making and increase legal certainty, Member States should ensure that the various steps of the environmental impact assessment of projects are carried out within a reasonable period of time, depending on the nature, complexity, location and size of the project. Such time-frames should, under no circumstances, compromise the achievement of high standards for the protection of the environment, particularly those resulting from Union legislation on the environment other than this Directive, and effective public participation and access to justice.
- (37) In order to improve the effectiveness of the assessments, reduce administrative complexity and increase economic efficiency, where the obligation to carry out assessments related to environmental issues arises simultaneously from this Directive and Directive 92/43/EEC and/or Directive 2009/147/EC, Member States should ensure

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that coordinated and/or joint procedures fulfilling the requirements of these Directives are provided, where appropriate and taking into account their specific organisational characteristics. Where the obligation to carry out assessments related to environmental issues arises simultaneously from this Directive and from other Union legislation, such as Directive 2000/60/EC of the European Parliament and of the Council⁽¹⁶⁾, Directive 2001/42/EC, Directive 2008/98/EC of the European Parliament and of the Council⁽¹⁷⁾, Directive 2010/75/EU of the European Parliament and of the Council⁽¹⁸⁾ and Directive 2012/18/EU, Member States should be able to provide for coordinated and/or joint procedures fulfilling the requirements of the relevant Union legislation. Where coordinated or joint procedures are set up, Member States should designate an authority responsible for performing the corresponding duties. Taking into account institutional structures, Member States should be able to, where they deem it necessary, designate more than one authority.

- (38) Member States should lay down rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive. Member States should be free to decide the kind or form of those penalties. The penalties thus provided for should be effective, proportionate and dissuasive.
- (39) In accordance with the principles of legal certainty and proportionality and in order to ensure that the transition from the existing regime, laid down in Directive 2011/92/EU, to the new regime that will result from the amendments contained in this Directive is as smooth as possible, it is appropriate to lay down transitional measures. Those measures should ensure that the regulatory environment in relation to an environmental impact assessment is not altered, with regard to a particular developer, where any procedural steps have already been initiated under the existing regime and a development consent or another binding decision required in order to comply with the aims of this Directive has not yet been granted to the project. Accordingly, the related provisions of Directive 2011/92/EU prior to its amendment by this Directive should apply to projects for which the screening procedure has been initiated, the scoping procedure has been initiated, (where scoping was requested by the developer or required by the competent authority) or the environmental impact assessment report is submitted before the time-limit for transposition.
- (40) In accordance with the Joint Political Declaration of Member States and the Commission of 28 September 2011 on explanatory documents⁽¹⁹⁾, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.
- (41) Since the objective of this Directive, namely to ensure a high level of protection of the environment and of human health, through the establishment of minimum requirements for the environmental impact assessment of projects, cannot be sufficiently achieved by the Member States but can rather, by reason of the scope, seriousness and transboundary nature of the environmental issues to be addressed, be better achieved at Union level,

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the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.

(42) Directive 2011/92/EU should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

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- (1) [OJ C 133, 9.5.2013, p. 33.](#)
- (2) [OJ C 218, 30.7.2013, p. 42.](#)
- (3) Position of the European Parliament of 12 March 2014 (not yet published in the Official Journal) and decision of the Council of 14 April 2014.
- (4) Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment ([OJ L 26, 28.1.2012, p. 1.](#))
- (5) Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment ([OJ L 175, 5.7.1985, p. 40.](#))
- (6) Regulation (EU) No 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC and amending Regulations (EC) No 713/2009, (EC) No 714/2009 and (EC) No 715/2009 ([OJ L 115, 25.4.2013, p. 39.](#))
- (7) Regulation (EU) No 1315/2013 of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network and repealing Decision No 661/2010/EU ([OJ L 348, 20.12.2013, p. 1.](#))
- (8) Regulation (EU) No 1316/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Connecting Europe Facility, amending Regulation (EU) No 913/2010 and repealing Regulations (EC) No 680/2007 and (EC) No 67/2010 ([OJ L 348, 20.12.2013, p. 129.](#))
- (9) Council Decision 93/626/EEC of 25 October 1993 concerning the conclusion of the Convention on Biological Diversity ([OJ L 309, 13.12.1993, p. 1.](#))
- (10) Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild flora and fauna ([OJ L 206, 22.7.1992, p. 7.](#))
- (11) Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds ([OJ L 20, 26.1.2010, p. 7.](#))
- (12) Directive 2013/30/EU of the European Parliament and of the Council of 12 June 2013 on safety of offshore oil and gas operations and amending Directive 2004/35/EC ([OJ L 178, 28.6.2013, p. 66.](#))
- (13) Directive 2012/18/EU of the European Parliament and the Council of 4 July 2012 on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC ([OJ L 197, 24.7.2012, p. 1.](#))
- (14) Council Directive 2009/71/Euratom of 25 June 2009 establishing a Community framework for the nuclear safety of nuclear installations ([OJ L 172, 2.7.2009, p. 18.](#))
- (15) Directive 2001/42/EC of the European Parliament and the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment ([OJ L 197, 21.7.2001, p. 30.](#))
- (16) Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy ([OJ L 327, 22.12.2000, p. 1.](#))
- (17) Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives ([OJ L 312, 22.11.2008, p. 3.](#))
- (18) Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) ([OJ L 334, 17.12.2010, p. 17.](#))
- (19) [OJ C 369, 17.12.2011, p. 14.](#)