

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 (codification) (Text with EEA relevance)

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

(codification)

(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⁾,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure⁽²⁾,

Whereas:

- (1) Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment⁽³⁾ has been substantially amended several times⁽⁴⁾. In the interests of clarity and rationality the said Directive should be codified.
- (2) Pursuant to Article 191 of the Treaty on the Functioning of the European Union, Union policy on the environment is based on the precautionary principle and on the principles that preventive action should be taken, that environmental damage should, as a priority, be rectified at source and that the polluter should pay. Effects on the environment should be taken into account at the earliest possible stage in all the technical planning and decision-making processes.
- (3) The principles of the assessment of environmental effects should be harmonised, in particular with reference to the projects which should be subject to assessment, the main obligations of the developers and the content of the assessment. The Member States may lay down stricter rules to protect the environment.

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- (4) In addition, it is necessary to achieve one of the objectives of the Union in the sphere of the protection of the environment and the quality of life.
- (5) The environmental legislation of the Union includes provisions enabling public authorities and other bodies to take decisions which may have a significant effect on the environment as well as on personal health and well-being.
- (6) General principles for the assessment of environmental effects should be laid down with a view to supplementing and coordinating development consent procedures governing public and private projects likely to have a major effect on the environment.
- (7) Development consent for public and private projects which are likely to have significant effects on the environment should be granted only after an assessment of the likely significant environmental effects of those projects has been carried out. That assessment should be conducted on the basis of the appropriate information supplied by the developer, which may be supplemented by the authorities and by the public likely to be concerned by the project in question.
- (8) Projects belonging to certain types have significant effects on the environment and those projects should, as a rule, be subject to a systematic assessment.
- (9) Projects of other types may not have significant effects on the environment in every case and those projects should be assessed where the Member States consider that they are likely to have significant effects on the environment.
- (10) Member States may set thresholds or criteria for the purpose of determining which of such projects should be subject to assessment on the basis of the significance of their environmental effects. Member States should not be required to examine projects below those thresholds or outside those criteria on a case-by-case basis.
- (11) When setting such thresholds or criteria or examining projects on a case-by-case basis, for the purpose of determining which projects should be subject to assessment on the basis of their significant environmental effects, Member States should take account of the relevant selection criteria set out in this Directive. In accordance with the subsidiarity principle, the Member States are in the best position to apply those criteria in specific instances.
- (12) For projects which are subject to assessment, a certain minimal amount of information should be supplied, concerning the project and its effects.
- (13) It is appropriate to lay down a procedure in order to enable the developer to obtain an opinion from the competent authorities on the content and extent of the information to be elaborated and supplied for the assessment. Member States, in the framework of this procedure, may require the developer to provide, inter alia, alternatives for the projects for which it intends to submit an application.
- (14) The effects of a project on the environment should be assessed in order to take account of concerns to protect human health, to contribute by means of a better environment to the quality of life, to ensure maintenance of the diversity of species and to maintain the reproductive capacity of the ecosystem as a basic resource for life.

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- (15) It is desirable to lay down strengthened provisions concerning environmental impact assessment in a transboundary context to take account of developments at international level. The European Community signed the Convention on Environmental Impact Assessment in a Transboundary Context on 25 February 1991, and ratified it on 24 June 1997.
- (16) Effective public participation in the taking of decisions enables the public to express, and the decision-maker to take account of, opinions and concerns which may be relevant to those decisions, thereby increasing the accountability and transparency of the decision-making process and contributing to public awareness of environmental issues and support for the decisions taken.
- (17) Participation, including participation by associations, organisations and groups, in particular non-governmental organisations promoting environmental protection, should accordingly be fostered, including, inter alia, by promoting environmental education of the public.
- (18) The European Community signed the UN/ECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the Aarhus Convention) on 25 June 1998 and ratified it on 17 February 2005.
- (19) Among the objectives of the Aarhus Convention is the desire to guarantee rights of public participation in decision-making in environmental matters in order to contribute to the protection of the right to live in an environment which is adequate for personal health and well-being.
- (20) Article 6 of the Aarhus Convention provides for public participation in decisions on the specific activities listed in Annex I thereto and on activities not so listed which may have a significant effect on the environment.
- (21) Article 9(2) and (4) of the Aarhus Convention provides for access to judicial or other procedures for challenging the substantive or procedural legality of decisions, acts or omissions subject to the public participation provisions of Article 6 of that Convention.
- (22) However, this Directive should not be applied to projects the details of which are adopted by a specific act of national legislation, since the objectives of this Directive, including that of supplying information, are achieved through the legislative process.
- (23) Furthermore, it may be appropriate in exceptional cases to exempt a specific project from the assessment procedures laid down by this Directive, subject to appropriate information being supplied to the Commission and to the public concerned.
- (24) Since the objectives of this Directive cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of the action, be better achieved at Union level, 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 those objectives.

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- (25) This Directive should be without prejudice to the obligations of the Member States relating to the time limits for transposition into national law of the Directives set out in Annex V, Part B,

HAVE ADOPTED THIS DIRECTIVE:

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- (1) [OJ C 248, 25.8.2011, p. 154.](#)
- (2) Position of the European Parliament of 13 September 2011 (not yet published in the Official Journal) and decision of the Council of 15 November 2011.
- (3) [OJ L 175, 5.7.1985, p. 40.](#)
- (4) See Annex VI, Part A.