

**Opinion of the Committee of the Regions on ‘Revision of the Environmental Impact Assessment Directive’**

(2013/C 218/07)

## THE COMMITTEE OF THE REGIONS

- requests that coordinated or joint environmental impact assessment (EIA) procedures as proposed under Article 2 (3) should be voluntary rather than obligatory; it should be clearly indicated which other EU legislation would fall under this provision;
- rejects the idea in Article 5(2) of making scoping mandatory for all cases, without exception. The responsibility to ensure an appropriate scope and level of detail of the environmental report should continue to lie with the developer;
- requests that the EIA Directive under Article 5 (3) should accommodate the different systems for checking environmental reports established in the Member States, including those where the verification of the reports may be done in-house by the competent authorities or the environmental authorities;
- welcomes the introduction of a minimum deadline for public consultation of 30 days under Article 6 (7). However, any deadlines exceeding this minimum should be a matter for the Member States to decide on;
- requests to modify the proposal under Article 8 (1) on the decision to grant development, in order to accommodate the different systems that exist in the Member States, and recommends, as a measure contributing to the quality and hence the effectiveness of EIAs, that the Directive specify the duration of validity of an EIA;
- is critical of the setting of binding time-frames for decisions on concluding EIAs for projects under Article 8 (3). The acceleration of proceedings sought by setting a time-frame is better achieved with more nuanced rules in the Member States;
- calls for transitional rules to be worded in such a way as to require EIAs for projects at an advanced stage of procedures to be conducted in line with the provisions of the current EIA Directive.

<b>Rapporteur</b>	Marek SOWA (PL/EPP), Marshal of the Małopolska voivodship
<b>Reference document</b>	Proposal for a Directive of the European Parliament and of the Council amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment  COM(2012) 628 final

## I. POLICY RECOMMENDATIONS

### THE COMMITTEE OF THE REGIONS

#### A. *General considerations*

1. emphasises that in many ways, the proposed changes to the legal framework for European environmental impact assessment are necessary and welcome. Stresses, however, that any changes should need to strike a careful balance between the requirements of environmental protection on the one hand, and economic development on the other. Excessively lengthy development consent procedures could threaten economic and social interests and could undermine the competitiveness of the EU as a whole. In many cases they would not be conducive to environmental protection or to people's health and quality of life. Changes to ensure quality as well as consistent procedures and documents should be implemented in such a way as to ensure effective and efficient decision-making;

2. notes, however, there are serious doubts regarding some changes which would lengthen the main stages of the process;

3. recalls that the proposed revision of the EIA Directive will have a significant impact on local and regional authorities, which will have a central role in the implementation of the proposed actions. Contrary to the European Commission's expectation, the CoR believes that many of the proposed amendments of the EIA Directive will lead to an increased administrative burden for local and regional authorities in terms of organisation, management and expenditure. Within this context, the CoR urges that any shift of responsibilities from the developer to the competent authority should be avoided;

4. maintains that any additional costs or administrative burdens for public authorities should be weighed up against the socio-economic and environmental benefits of the proposed changes, so that in the long term the benefits outweigh the costs;

5. stresses that the Directive can be successful on the ground only if national, local and regional authorities establish well-functioning institutional structures provided with the necessary

financial and human resources enabling all responsible departments, in particular environment departments, to be actively involved; emphasises the persistent need for further capacity building in local and regional authorities, which should include closer cooperation with, and support from, the existing national EIA Centres;

6. calls for greater terminological consistency throughout the text of the draft directive and its annexes, in order to increase legal certainty;

7. supports the intention to increase the quality of the environmental reports; however, the EIA Directive should accommodate the different systems for checking environmental reports established in the Member States, regions and cities;

8. believes that the new provisions do not sufficiently accommodate the different EIA systems (EIA procedure integrated or separate from the development consent procedure) that exist in the Member States;

#### B. *Scope of application — Article 1*

9. seeks clarification on the widening of the definition of a project in Article 1(2) to include demolition works; believes that if the provision intends to introduce a possible EIA for demolition works in **all** projects listed in Annexes I or II, this could lead to a substantial additional administrative burden. The CoR believes that the obligation to carry out an EIA for demolition work should be limited to the clearly defined cases mentioned in Annexes I and II, for the demolition or dismantling of the project at the end of its life or for the demolition work required to carry out the project;

10. calls for both the definition of the term 'authorisation' and its use in the main body of the directive to be examined once again given that the transposition and application of the Services Directive (Directive 2006/123/EC of the European Parliament and the Council of 12 December 2006 on services in the internal market) has given rise in the Member States to the abolition of the requirement for prior authorisations to carry out particular services, replacing them with checks at a later stage;

11. is pleased that 'projects having as their sole purpose national defence or the response to civil emergencies' are to be exempted from compulsory EIAs. To ensure that this provision is not abused and that too many projects are not exempted from an EIA, a list with examples of such civil emergency projects could be inserted into the Directive, with consideration also given to projects supported by the European Solidarity Fund;

12. deplores that the proposal does not include a revision of Annexes I and II, therefore missing an opportunity to review them and where appropriate to limit their scope based on experiences to date; reiterates its call for the setting of EU minimum thresholds, in order to increase legal clarity. This would reduce differences in treatment of businesses in the EU, and the administrative and financial burdens for local and regional authorities in the various Member States. It is noted that, when establishing thresholds, some Member States often exceed their margin of discretion, either by taking account only of certain selection criteria from Annex III or by exempting some projects in advance. A harmonisation of thresholds should also take into account the thresholds and criteria used by the Directive 2010/75/EU on industrial emissions (IED);

**C. 'One-stop-shop' (coordinated or joint procedures) — Article 2(3)**

13. considers that coordinated or joint procedures should be voluntary instead of obligatory as proposed by the European Commission;

14. for greater legal clarity, calls for a clear indication in Article 2(3) of which other EU legislation would fall under this provision;

15. points out that setting up an EIA one-stop shop should not entail an increase in staff and costs disproportionate to the benefits of implementing environmental impact assessments; asks for clarification as to whether the provision that 'Member States shall appoint one authority, which shall be responsible for facilitating the development consent procedure for each project' would apply only to projects covered by the coordinated/joint procedure, or to all projects. In some Member States such an obligation would be very difficult to comply with due to the specific hierarchy and competences of different authorities involved in the process. For Member States where the

EIA procedure is integrated in the development consent procedure and carried out by the authority in charge of the development consent, it might be necessary to clarify that the 'one authority' referred to can also be this authority;

**D. New aspects to be considered by the environmental impact assessment (Article 3), in the screening (Annex III) and in the environmental report (Article 5(1), Annex IV)**

16. calls for more coherence between the terminologies and the level of detail used in Article 3 and Annex III and IV. The factors listed in Article 3 should be described in greater detail, in coordination with Annex IV, for example when it comes to reference to land use and land take, reference to ecosystems and their services, and to 'natural and man-made disaster risks'; calls for some lists (e.g. number 5: 'inter alia') to be made exhaustive in order to avoid broadening the scope of the assessment;

17. calls upon the European Commission to issue, as soon as possible after the entry into force of the revised Directive, guidance documents that include methodologies to determine local impacts of a project on climate change, as well as the exposure, vulnerability and resilience of a given environment to natural and man-made disaster risks;

18. calls for the inclusion of environmental objectives established at regional or local levels in Annex IV, point 5, last paragraph;

19. supports the call of the Council for further clarification on the term 'reasonable alternatives' used in the Directive, and on the assessment of the state of the environment without implementation of the project (baseline scenario). Reasonable alternatives should be only those which are also commensurate with the objectives, comply with other EU legislation, or correspond with the planning stage and type of the individual project;

**E. Screening procedure — Article 4, Annex II.A, Annex III**

20. welcomes the overall intention of the European Commission to streamline the screening procedure and enhance the consistency of Member States' approaches to ensure that EIAs are required only when it is clear that there are significant environmental impacts;

21. is critical of certain new provisions which give the impression that the screening becomes a 'mini EIA'. Annexes IIA and III imply that in practice a report should be submitted assessing whether the project has significant effects or not. The difference is that there is no assessment of alternatives here. Instead, screening should involve a checklist, giving local and regional authorities easily applicable mechanisms for screening out developments with no significant impacts. In addition, according to the proposed amendment to Article 4 (3), for each project listed in Annex II, the applicant is required to provide information on the characteristics of the project, its potential impact on the environment and the measures envisaged in order to avoid and reduce significant effects, in line with the information set out in the new Annex II.A. This contradicts the solution allowed under Article 4 (2), under which Member States may decide to apply both procedures referred to in paragraphs (a) and (b). In addition, the use of the thresholds referred to in Article 4 (2)b should be clarified and it should be specified whether Member States can set these thresholds themselves, on the basis of the criteria set out in Annex III, or whether they are established by the Directive;

22. also points out that the selection criteria referred to in Article 4(4) in Annex III are in many respects significantly tougher than in existing legislation. For example Annex III not only includes numerous detailed specifications, but also several additional criteria (natural disaster risks, impact on climate change, agriculture areas with a high nature value, etc.), although these are not of direct relevance to projects and in some cases go beyond the scope of the test programme for the consent decision. For example, climate change is a large-scale phenomenon, whose impacts are difficult to measure in terms of space and time, and which for the time being can only be simulated using very costly computer models. At project level, local climate impacts are already taken into account where necessary. If EIAs start looking at large-scale climate change, there is a risk of high costs arising for project developers, leading to questionable technical outcomes; such costs would be excessive given the secondary importance of point and linear projects for climate change; therefore calls for an exhaustive list of projects to which this provision applies; points out that the proposed change is inconsistent with the subsidiarity principle. The inclusion of additional specifications and criteria contradicts the idea expressed in recital 11 of the EIA directive that Member States should be given scope to take appropriate decisions reflecting specific national circumstances. The number of criteria to be taken into account and the level of detail go beyond what should be made binding at EU level;

#### F. Scoping — Article 5(2)

23. notes with satisfaction that the European Commission proposal to introduce mandatory scoping reflects the previous CoR recommendation to improve the quality of information

and rationalise the EIA procedure; however, rejects the idea of making scoping mandatory for all cases, without exception. The responsibility to ensure an appropriate scope and level of detail of the environmental report should continue to lie with the developer; considerable additional costs for the developer and the authorities involved should be avoided;

24. recommends complementing scoping with the introduction of European Commission or national guidelines for sector-specific content where this would help ensure the quality of an EIA and the gathering of all aspects relevant to decisions;

25. is critical of the proposal in Article 5(2)(a) on the decisions and opinions to be obtained, (c) on the competent authority defining the individual stages of the procedure and their duration and (d) on reasonable alternatives to the proposed project and its specific characteristics;

#### G. Reinforcing the quality of the environmental reports — Article 5(3)

26. feels that the obligation for ensuring the quality of the environmental report should stay with the developer. A distinction should be kept between ensuring quality in the preparation of the reports by the developers, and in the control of the reports by the competent authority; acknowledges, however, that quality control for the reports needs to be tightened to ensure that analyses are conducted with proper independence from the developer;

27. feels that the EIA Directive should accommodate the different systems for checking environmental reports established in the Member States and in local and regional authorities. The systems put in place do not only work with external experts and expert committees, as reflected by the European Commission proposal, but also other systems, as it is often the case for older Member States, where the verification of the reports is done in-house by the competent authorities or the environmental authorities;

#### H. *Public consultation — Articles 6 and 7*

28. considers the EIA Directive as a key instrument for local and regional public participation to ensure local knowledge is taken into account, while noting the cost and skills implications; therefore welcomes the introduction of a minimum deadline for consultation of 30 days under Article 6 (7). However, any deadlines exceeding this minimum should be a matter for the Member States to decide on. Otherwise, the procedure could be excessively drawn out for many companies and public sector developers, given the risk that concerned sections of the public could insist on the full 60 to 90 days provided for in Article 6 (7). These maximum deadlines would make it difficult to integrate environmental impact assessment into consent procedures and are inconsistent with the objective of faster planning procedures. The faster procedures which timeframes are intended to serve could be better achieved through differentiated national rules adopted by the Member States;

29. bearing in mind the interests of all concerned, and in line with the principle that each decision should be taken without unjustified delays, suggests reasonable limits to the amount of time needed to pass on information and prepare for the decision-making procedure;

#### I. *Development consent— Article 8*

30. underlines that the new provisions in Article 8 (1) must be flexible enough to accommodate the different EIA systems that exist in the Member States. In some Member States, the EIA is a separate procedure by the environment authorities, where development consent issued by a different authority comes after the EIA permit and must comply with the stipulations of the EIA permit. In other Member States, the EIA is integrated into the development consent procedure;

31. notes further criticism that the new provisions in Article 8 do not sufficiently take account of the integrated system established in some Member States, inasmuch as these provisions create new material preconditions, which lead to overlaps or contradictions between EU and national sectoral law. These provisions should not therefore be part of the EIA Directive, which is deemed to be of a procedural nature only;

32. points out that there may be procedural problems in regard to the new provision of Article 8(2) that, if it is

concluded that a project will have significant adverse environmental effects, the competent authority, in cooperation with the environmental authorities and the developer, shall consider whether the environmental report should be revised and the project modified and whether additional mitigation or compensation measures are needed;

33. points out that the long period needed to obtain development consent gives rise to a real danger that Article 8(4) of the amended directive would frequently be invoked, which stipulates that, before a decision to grant or refuse development consent is taken, the competent authority should verify whether the information in the environmental report referred to in Article 5(1) is up to date, in particular concerning the measures envisaged to prevent, reduce and, where possible, offset any significant effects on the environment;

34. recommends, as a measure contributing to the quality and hence the effectiveness of EIAs, that the Directive specify the duration of validity of an EIA;

35. is critical of the setting of binding time-frames for decisions on concluding environmental impact assessments for projects (Article 8 (3)). For many companies and public sector developers, this could lead to excessively lengthy procedures; Article 8 (3), moreover, does not adequately address the fact that extensive and time-consuming assessments have to be conducted in the case of large infrastructure projects that cannot be performed in the required standard in the time available. This raises the fear, despite recital 22, that establishing a definite time-frame would compromise demanding environmental protection standards, which could also be detrimental to legal certainty. The acceleration of proceedings sought by setting a time-frame is better achieved with more nuanced rules in the Member States;

#### J. *Monitoring of possible significant environmental effects and of mitigation/compensation measures — Articles 8(2) and 9, Annex IV*

36. calls for the harmonisation of the different terminologies used for the corrective measures throughout the proposal, for example 'compensation' in Article 8 (2) versus 'offset measures' in Article 9 and Annex IV;

37. warns that monitoring should not undermine the need for a detailed analysis of the significant impacts and their mitigation and compensation by the developer, or the prevention and precautionary principles. This means that uncertainty as to the significant impacts of a planned project should not lead to a situation in which, rather than looking for their mitigation/compensation, the project is authorised with a monitoring obligation only, with subsequent difficulties in readapting it in view of its impact. Article 8(2) subparagraph 2 is problematic. It provides for a check on the implementation and effectiveness of damage mitigation and compensation measures which in effect amounts to monitoring. It is not clear here why the authorising body should establish measures to monitor significant adverse environmental effects if it is convinced of the effectiveness of the planned mitigation and compensation measures, since there is already enough experience with this in practice. This blanket monitoring requirement appears disproportionate and would burden the developer unreasonably. Whether monitoring of significant adverse environmental effects is necessary can usually only be decided in each instance by the authorising body;

#### K. *Monitoring of the implementation of the Directive by Member States — Article 12(2)*

38. takes note of criticism of the additional administrative burden that will be implied for Member States and regional and

local authorities in collecting and providing the new information required by the European Commission in the proposed Article 12(2) in order to monitor implementation of the Directive;

#### L. *Empowerment for the European Commission to adopt delegated acts concerning Annexes II.A, III, and IV — Article 12a*

39. objects to empowerment of the European Commission to adopt delegated acts in order to more easily adapt Annexes II.A, III and IV to technical and scientific progress; believes that all Annexes should be subject to the ordinary legislative procedure, as they are closely connected to the EIA requirements as laid down in the Directive;

#### M. *Transitional rules*

40. calls for transitional rules in Article 3 to be worded in such a way as to require EIAs for projects at an advanced stage of procedures to be conducted in line with the provisions of the current EIA directive — for example, if an environmental report has already been drawn up pursuant to Article 5, or if the project has already been publicly announced;

## II. RECOMMENDATIONS FOR AMENDMENTS

### Amendment 1

#### Article 2(3) EIA Directive

Text proposed by the Commission	CoR amendment
<p>3. Projects for which the obligation to carry out assessments of the effects on the environment arises simultaneously from this Directive and other Union legislation shall be subject to coordinated or joint procedures fulfilling the requirements of the relevant Union legislation.</p> <p>...</p>	<p>3. Projects for which the obligation to carry out assessments of the effects on the environment arises simultaneously from this Directive and other Union legislation <del>shall</del> <u>may</u> be subject to coordinated or joint procedures fulfilling the requirements of the <del>relevant</del> <u>following</u> Union legislation.: <u>the Industrial Emissions Directive, Habitats Directive, Water Framework Directive, Marine Strategy Framework Directive, and also the Energy Efficiency Directive;</u></p> <p>...</p>
<p>Member States shall appoint one authority, which shall be responsible for facilitating the development consent procedure for each project.</p>	<p>Member States shall appoint one <u>or more than one</u> authority, which shall be responsible for facilitating the <u>environmental impact assessment procedure; this may be the authority responsible for the</u> development consent procedure <del>for each project.</del></p>

#### Reason

Coordinated or joint procedures should be voluntary rather than obligatory. For greater legal clarity, it should be clearly indicated which other EU legislation would fall under this provision. The proposed amendment has to do with the fact that in some Member States such an obligation would be very difficult to comply with due to the specific hierarchy and competences of different authorities involved in the process.

**Amendment 2**

## Article 3 EIA Directive

Text proposed by the Commission	CoR amendment
<p>The environmental impact assessment shall identify, describe and assess in an appropriate manner, in the light of each individual case and in accordance with Articles 4 to 11, the direct and indirect significant effects of a project on the following factors:</p> <p>(a) population, human health, and biodiversity, with particular attention to species and habitats protected under Council Directive 92/43/EEC(*) and Directive 2009/147/EC of the European Parliament and of the Council(**);</p> <p>(b) land, soil, water, air and climate change;</p> <p>(c) material assets, cultural heritage and the landscape;</p> <p>(d) the interaction between the factors referred to in points (a), (b) and (c);</p> <p>(e) exposure, vulnerability and resilience of the factors referred to in points (a), (b) and (c), to natural and man-made disaster risks</p>	<p>The environmental impact assessment shall identify, describe and assess in an appropriate manner, in the light of each individual case and in accordance with Articles 4 to 11, the direct and indirect significant effects of a project on the following factors:</p> <p>a) population, human health, and biodiversity, with particular attention to species and habitats protected under Council Directive 92/43/EEC(*) and Directive 2009/147/EC of the European Parliament and of the Council(**);</p> <p>b) land, soil, water, air, and climate change;</p> <p>c) material assets, <u>according to their exposure to environmental factors</u>, cultural heritage and the landscape;</p> <p>d) the interaction between the factors referred to in points (a), (b) and (c);</p> <p>e) exposure, vulnerability and resilience of the factors referred to in points (a), (b) and (c), to natural and man-made disaster risks.</p>

**Amendment 3**

## Article 5 (1) and (2) EIA Directive

Text proposed by the Commission	CoR amendment
<p>1. Where an environmental impact assessment must be carried out in accordance with Articles 5 to 10, the developer shall prepare an environmental report. The environmental report shall be based on the determination pursuant to paragraph 2 of this Article and include the information that may reasonably be required for making informed decisions on the environmental impacts of the proposed project, taking into account current knowledge and methods of assessment, the characteristics, technical capacity and location of the project, the characteristics of the potential impact, alternatives to the proposed project and the extent to which certain matters (including the evaluation of alternatives) are more appropriately assessed at different levels including the planning level, or on the basis of other assessment requirements. The detailed list of information to be provided in the environmental report is specified in Annex IV.</p> <p>2. The competent authority, after having consulted the authorities referred to in Article 6(1) and the developer, shall determine the scope and level of detail of the information to be included by the developer in the environmental report, in accordance with paragraph 1 of this Article. In particular, it shall determine:</p>	<p>1. Where an environmental impact assessment must be carried out in accordance with Articles 5 to 10, the developer shall prepare an environmental report. The environmental report shall be based on the <u>details set out in Annex IV, and where appropriate, on the</u> determination pursuant to paragraph 2 of this Article and include the information that may reasonably be required for making informed decisions on the environmental impacts of the proposed project, taking into account current knowledge and methods of assessment, the characteristics, technical capacity and location of the project, the characteristics of the potential impact, alternatives to the proposed project and the extent to which certain matters (including the evaluation of alternatives) are more appropriately assessed at different levels including the planning level, or on the basis of other assessment requirements. The detailed list of information to be provided in the environmental report is specified in Annex IV.</p> <p>2. <del>The competent authority, after having consulted the authorities referred to in Article 6(1) and</del> <u>Before pronouncing on the environmental impact assessment, the competent authority may</u> <del>developer, shall</del> determine the scope and level of detail of the information to be included by the developer in the environmental report, in accordance with paragraph 1 of this Article <u>after having consulted the authorities referred to in Article 6(1) and, where appropriate, the developer.</u> In particular, it shall determine:</p>

Text proposed by the Commission	CoR amendment
a) the decisions and opinions to be obtained;	a) <del>the decisions and opinions to be obtained;</del>
b) the authorities and the public likely to be concerned;	ba) the authorities and the public likely to be concerned;
c) the individual stages of the procedure and their duration;	e) <del>the individual stages of the procedure and their duration;</del>
d) reasonable alternatives relevant to the proposed project and its specific characteristics;	d) <del>reasonable alternatives relevant to the proposed project and its specific characteristics;</del>
e) the environmental features referred to in Article 3 likely to be significantly affected;	eb) the environmental features referred to in Article 3 likely to be significantly affected;
f) the information to be submitted relevant to the specific characteristics of a particular project or type of project;	fc) the information to be submitted relevant to the specific characteristics of a particular project or type of project;
g) the information and knowledge available and obtained at other levels of decision-making or through other Union legislation, and the methods of assessment to be used. ...	gd) the information and knowledge available and obtained at other levels of decision-making or through other Union legislation, and the methods of assessment to be used.  <u>The competent authority may determine such issues, either when requested to by the developer or, as a matter of course, at any time during the assessment process, if the said authority identifies any deficiencies in the information referred to in sub-paragraphs a), b), c), or d), ...</u>

### Reason

Issues relating to the decisions and opinions to be obtained, as well as the individual stages of the procedure and their duration should be defined by national procedural law. Moreover, it is not the authorities' job to develop alternatives to projects. We oppose any such shift of planning and project development responsibilities from project developers to the authorities.

### Amendment 4

#### Article 5(3) EIA Directive

Text proposed by the Commission	CoR amendment
3. To guarantee the completeness and sufficient quality of the environmental reports referred to in Article 5(1):	3. To guarantee the completeness and sufficient quality of the environmental reports referred to in Article 5(1):
a) the developer shall ensure that the environmental report is prepared by accredited and technically competent experts or	a) the developer shall ensure that the environmental report is prepared by <del>accredited and</del> technically competent <u>external or in-house experts or the environmental authorities</u> experts, or
b) the competent authority shall ensure that the environmental report is verified by accredited and technically competent experts and/or committees of national experts.	b) the competent authority shall ensure that the environmental report is verified by accredited and technically competent <u>external or in-house experts or the environmental authorities</u> experts and/or committees of national experts.
...	...

### Reason

The EIA Directive should accommodate the different systems for checking the environmental report established in the Member States, regions and cities. The systems put in place do not only work with external

experts and expert committees, but also other systems, as is often the case for Member States, where the verification of the reports may be done in-house by the competent authorities or the environmental authorities. The proposed wording demonstrates that both the developer and the competent authority need to ensure that the environmental report is verified by a competent body.

### Amendment 5

#### Article 8(1) EIA Directive

Text proposed by the Commission	CoR amendment
1. The results of consultations and the information gathered pursuant to Articles 5, 6 and 7 shall be taken into consideration in the development consent procedure. To this end, the decision to grant development consent shall contain the following information:	1. The results of consultations and the information gathered pursuant to Articles 5, 6 and 7 shall be taken into consideration in the development consent procedure. To this end, the decision to grant development consent shall contain the following <u>additional</u> information:
...	...
d) ... (...)	d).... (...)
	<u>The above conditions shall be deemed to be met, if, pursuant to Article 2(2), the Member States, for the purposes of the Directive, establish a separate procedure to comply with its requirements, and the decision issued after conclusion of the environmental impact assessment includes the information set out in subparagraphs (a) to (d), and appropriate rules are established to comply with the condition set out in Article 8(4).</u>
...	...

### Reason

Article 8 (1) does not sufficiently accommodate the different EIA systems that exist in the Member States. In some Member States, the EIA is a separate procedure by the environment authorities, where development consent issued by a different authority comes after the EIA permit and must comply with the stipulations of the EIA permit. In other Member States, the EIA is integrated into the development consent procedure.

### Amendment 6

#### Article 8(4) EIA Directive

Text proposed by the Commission	CoR amendment
Before a decision to grant or refuse development consent is taken, the competent authority shall verify whether the information in the environmental report referred to in Article 5(1) is up to date, in particular concerning the measures envisaged to prevent, reduce and, where possible, offset any significant adverse effects.	<del>Before a decision to grant or refuse development consent is taken, the competent authority shall verify whether the information in the environmental report referred to in Article 5(1) is up to date, in particular concerning the measures envisaged to prevent, reduce and, where possible, offset any significant adverse effects.</del>
	<u>EIAs shall be valid for four years. If it is established that the information in the environmental report is still valid, the competent authority shall extend this period by a further two years. If it is established that the information in the environmental report is no longer valid, the competent authority shall ask the developer to update the report.</u>

**Reason**

At many stages of procedures, authorities can ask developers to provide relevant, additional information, particularly if they notice that information in the environmental report is not up to date. Specifying the duration of validity of an EIA is a better means of enhancing the quality and hence the effectiveness of EIAs.

**Amendment 7**

## Article 11(3) EIA Directive

Text proposed by the Commission	CoR amendment
<p>3. What constitutes a sufficient interest and impairment of a right shall be determined by the Member States, consistently with the objective of giving the public concerned wide access to justice. To this end, the interest of any non-governmental organisation meeting the requirements referred to in Article 1(2), shall be deemed sufficient for the purpose of point (a) of paragraph 1 of this Article. Such organisations shall also be deemed to have rights capable of being impaired for the purpose of point (b) of paragraph 1 of this Article.</p>	<p>3. What constitutes a sufficient interest and impairment of a right shall be determined by the Member States, consistently with the objective of giving the public concerned wide access to justice. <del>To this end, the interest of any</del> <u>Δ</u> non-governmental organisation meeting the requirements referred to in Article 1(2), shall be deemed <u>in principle entitled to bring action</u> <del>sufficient</del> for the purpose of point (a) of paragraph 1 of this Article. Such organisations shall also be deemed to have rights capable of being impaired for the purpose of point (b) of paragraph 1 of this Article.</p>

**Reason**

To enable all NGOs recognised by the State to bring actions.

**Amendment 8**

## Article 12(2) EIA Directive

Text proposed by the Commission	CoR amendment
<p>2. In particular, every six years from the date specified in Article 2(1) of Directive XXX [OPOCE please introduce the n° of this Directive] Member States shall inform the Commission of:</p> <p>...</p> <p>f) the average cost of the environmental impact assessments.</p>	<p>2. In particular, every six years from the date specified in Article 2(1) of Directive XXX [OPOCE please introduce the n° of this Directive] Member States shall inform the Commission of:</p> <p>...</p> <p>f) <u>where possible</u>, the average cost of the environmental impact assessments.</p>

**Reason**

Given that information relating to the cost of environmental reports is protected data, it will not always be possible to provide the average cost of the environmental impact assessments.

**Amendment 9**

## Article 3

Text proposed by the Commission	CoR amendment
<p>Projects for which the request for development consent was introduced before the date referred to in the first subparagraph of Article 2(1) and for which the environmental impact assessment has not been concluded before that date shall be subject to the obligations referred to in Articles 3 to 11 of Directive 2011/92/EU as amended by this Directive.</p>	<p>Projects for which the request for development consent was introduced before the date referred to in the first subparagraph of Article 2(1), and for which the environmental impact assessment has not been concluded before that date, <u>nor has an environmental report been drawn up pursuant to Article 5, and which have not been publicly announced</u>, shall be subject to the obligations referred to in Articles 3 to 11 of Directive 2011/92/EU as amended by this Directive.</p>

**Reason**

According to Article 3, projects for which the environmental impact assessment has not been concluded before the deadline for transposal of this directive are subject to the provisions of the amended directive, regardless of the stage reached by procedures. In many cases, such transitional rules would mean having to repeat procedural steps, thus resulting in significant costs for developers and authorities. This would be excessive, given that an EIA is already required for the projects in question, and that no new EIA requirement would be introduced for them. The transitional rules in Article 3 should therefore be worded in such a way as to require EIAs for projects at an advanced stage of procedures to be conducted in line with the provisions of the current EIA directive.

Brussels, 30 May 2013.

*The President*  
*of the Committee of the Regions*  
Ramón Luis VALCÁRCEL SISO

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