

Text of the Directive 2011/92/EU	Proposed Amendments	Reasoning
<p>Article 1</p> <p>2. For the purposes of this Directive, the following definitions shall apply:</p> <p>(c) ‘development consent’ means the decision of the competent authority or authorities which entitles the developer to proceed with the project</p>	<p>Article 1</p> <p>2. For the purposes of this Directive, the following definitions shall apply:</p> <p>(c) ‘development consent’ means the decision of the competent authority or authorities which entitles the developer <i>to begin with the execution of the</i> project;</p>	<p>Public participation must take place before construction works start; Art 6 (5) EIA Directive refers to Art 1 (2) c (decision on the development consent) for the timing of public participation</p>
<p>Article 2 (4)</p> <p>4. Without prejudice to Article 7, Member States may, in exceptional cases, exempt a specific project in whole or in part from the provisions laid down in this Directive.</p> <p>In that event, the Member States shall:</p> <p>(a) consider whether another form of assessment would be appropriate;</p> <p>(b) make available to the public concerned the information obtained under other forms of assessment referred to in point (a), the information relating to the decision granting exemption and the reasons for granting it;</p> <p>(c) inform the Commission, prior to granting consent, of the reasons justifying the exemption granted, and provide it with the information made available, where applicable, to their own nationals.</p> <p>The Commission shall immediately forward the documents received to the other Member States.</p> <p>The Commission shall report annually to the European Parliament and to the Council on the application of this paragraph.</p>	<p><i>delete without substitution</i></p>	<p>This exemption impairs the effectiveness of the whole Directive.</p>

<p>Article 6 (6)</p> <p>6. Reasonable time-frames for the different phases shall be provided, allowing sufficient time for informing the public and for the public concerned to prepare and participate effectively in environmental decision-making subject to the provisions of this Article.</p>	<p>Article 6 (6)</p> <p>6. Reasonable time-frames for the different phases shall be provided, allowing sufficient time for informing the public and for the public concerned to prepare and participate effectively in environmental decision-making subject to the provisions of this Article. <i>When providing time-frames for public participation, Member States shall take into account the complexity of the decision-making procedure and the project. As a minimum, the public concerned should be given 30 working days after all relevant information has been made available for them by the competent authority to prepare and participate effectively.</i></p>	<p>Differing time-frames in the Member States weaken the effectiveness of the Directive.</p>
<p>Article 8</p> <p>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.</p>	<p>Article 8</p> <p>The results of consultations and the information gathered pursuant to Articles 5, 6 and 7 shall be taken into <i>due account</i> in the development consent decision.</p>	<p>Aarhus Convention demands to take due account of the outcome of public participation.</p>
<p>Article 9</p> <p>1. When a decision to grant or refuse development consent has been taken, the competent authority or authorities shall inform the public thereof in accordance with the appropriate procedures and shall make available to the public the following information:</p> <p>(a) the content of the decision and any conditions attached thereto;</p> <p>(b) having examined the concerns and opinions expressed by the public concerned, the main reasons and considerations on which the decision is based, including information about the public participation process;</p>	<p>Article 9</p> <p>1. When a decision to grant or refuse development consent has been taken, the competent authority or authorities shall inform the public <i>as soon as possible, at the latest after 10 working days, thereof. The competent authority or authorities</i> shall make available to the public the following information:</p> <p>(a) the content of the decision and any conditions attached thereto;</p> <p>(b) having examined the concerns and opinions expressed by the public concerned, the main reasons and considerations on which the decision is based, including information about the public participation process;</p>	<p>Timely information concerning the decision on the development consent is a necessary prerequisite for effective access to justice.</p>

<p>(c) a description, where necessary, of the main measures to avoid, reduce and, if possible, offset the major adverse effects.</p>	<p>(c) a description, where necessary, of the main measures to avoid, reduce and, if possible, offset the major adverse effects <i>(d) the possibilities for the public concerned to initiate a review procedure pursuant to Article 11.</i></p>	
<p style="text-align: center;">Article 11</p> <p>1. Member States shall ensure that, in accordance with the relevant national legal system, members of the public concerned:</p> <p>(a) having a sufficient interest, or alternatively;</p> <p>(b) maintaining the impairment of a right, where administrative procedural law of a Member State requires this as a precondition;</p> <p>have access to a review procedure before a court of law or another independent and impartial body established by law to challenge the substantive or procedural legality of decisions, acts or omissions subject to the public participation provisions of this Directive.</p> <p>2. Member States shall determine at what stage the decisions, acts or omissions may be challenged.</p>	<p style="text-align: center;">Article 11</p> <p>1. Member States shall ensure that, in accordance with the relevant national legal system, members of the public concerned:</p> <p>(a) having a sufficient interest, or alternatively;</p> <p>(b) maintaining the impairment of a right, where administrative procedural law of a Member State requires this as a precondition;</p> <p><i>within at least 20 days after the content of the decision has been published pursuant to Article 9 have access to an effective</i> review procedure before a court of law or another independent and impartial body established by law to challenge the substantive or procedural legality of decisions, acts or omissions subject to the public participation provisions of this Directive <i>as well as the decisions taken pursuant to Article 4 (2).</i></p> <p>2. Member States shall determine at what stage the decisions, acts or omissions may be challenged. <i>The project shall not be executed before the review procedure has been closed. Exemptions from this provision have to be consistent with the objective of providing access to justice when it is still effectively possible to challenge the substantive or procedural legality of decisions, acts or omissions subject to the public participation provisions of this Directive.</i></p>	<p>Minimum time-frames for the initiation of review proceedings help to further the effectiveness of the EIA Directive and prevent Member States from setting too short time-frames.</p> <p>Screening Decisions according to Art 4 (2) EIA Directive must be reviewable.</p> <p>The Aarhus Convention demands effective remedies, including injunctive relief.</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. To that 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>4. The provisions of this Article shall not exclude the possibility of a preliminary review procedure before an administrative authority and shall not affect the requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures, where such a requirement exists under national law.</p> <p>Any such procedure shall be fair, equitable, timely and not prohibitively expensive.</p> <p>5. In order to further the effectiveness of the provisions of this Article, Member States shall ensure that practical information is made available to the public on access to administrative and judicial review procedures.</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. To that 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>4. The provisions of this Article shall not exclude the possibility of a preliminary review procedure before an administrative authority and shall not affect the requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures, where such a requirement exists under national law.</p> <p>Any such procedure shall be fair, equitable, timely and not prohibitively expensive <i>and include injunctive reliefs or suspension of the development consent.</i></p> <p>5. In order to further the effectiveness of the provisions of this Article, Member States shall ensure that practical information is made available to the public on access to administrative and judicial review procedures <i>in accordance with Article 9.</i></p>	<p>The Aarhus Convention demands effective remedies, including injunctive relief.</p>
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