

The EU framework on environmental assessments of plans, programmes and projects

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Enforcement, Cohesion and European Semester*

DG ENV.D1

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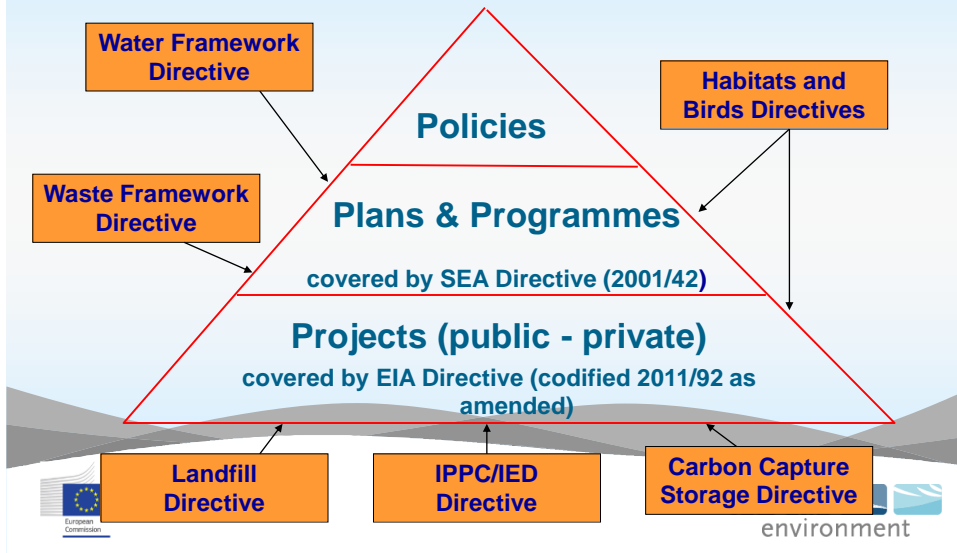


Presentation outline

- 1. Key objectives**
- 2. Scope of applicability**
- 3. SEA/EIA processes**
- 4. Interpretation of the EIA Directive**
- 5. Revision of the EIA Directive**



Environmental Assessments



Similar Objectives of the Directives

SEA Directive

- ✓ To provide for a **high level of protection of the environment**.
- ✓ To contribute to the **integration of environmental considerations** into the preparation of plans and programmes with a view to promoting sustainable development.

EIA Directive

- ✓ To protect the **environment and the quality of life**.
- ✓ Ensure **approximation of national laws** with regard to the assessment of the environmental effects of public and private projects.

Guiding principle for both EIA/SEA: plans, programmes and projects which are **likely to have significant effects** on the environment are subject to an assessment.



Scope of applicability: SEA

Which plans or programmes?

- ✓ prepared and/or adopted by an **authority** at national, regional or local level AND
- ✓ **required** by legislative, regulatory or administrative provisions.

Exemptions:

- ✗ Plans & programmes the **sole** purpose of which is to serve national defence or civil emergency;
- ✗ Financial or budget plans/programmes.



Scope of applicability: SEA

Plans and programmes that **always** require SEA are those:

- ✓ prepared for agriculture, forestry, fisheries, energy, industry, transport, waste/ water management, telecommunications, tourism, town & country planning or land use AND which **set the framework** for future development consent of projects listed in the EIA Directive;
- ✓ which have been determined to require an assessment under Articles 6 or 7 of the Habitats Directive.
- ❖ P/Ps co-financed by the EU (e.g. OPs).
- ❖ Modifications of P/Ps.

Plans and programmes that must be **screened**:

- P/Ps using small areas at local level.
- minor modifications to P/Ps.
- P/Ps setting the framework for future “non-EIA projects” and “non-sector” P/Ps.



Scope of applicability: EIA

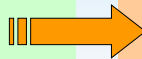
- **Request for a development consent:** determines whether the EIA is applicable.
- **When** the application for authorisation for a project was formally lodged before:
 - the expiry of the time-limit for transposition of a directive or
 - **the date of accession**

⇒ the EIA is not applicable.
- **BUT: for EC co-funded projects, the Commission requires compliance with the EIA requirements.**



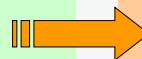
Scope of applicability: EIA

■ **Annex I projects**



Mandatory EIA

■ **Annex II projects**



Screening

up to competent authorities to decide if an EIA is needed or not



Some examples of EIA projects

ANNEX I

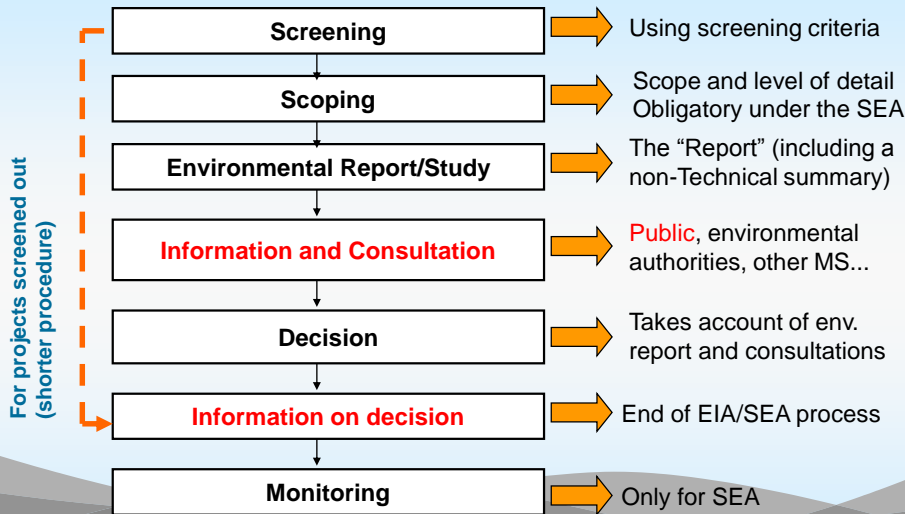
- Long-distance railway lines
- Airports with a basic runway length ≥ 2100 m
- Motorways, express roads, roads of four lanes or more (of at least 10 Km)
- Waste disposal installations
 - ➔ for hazardous waste
 - ➔ for non-hazardous waste (above 100 tonnes/day)
- Waste water treatment plants (above 150.000 p.e.)

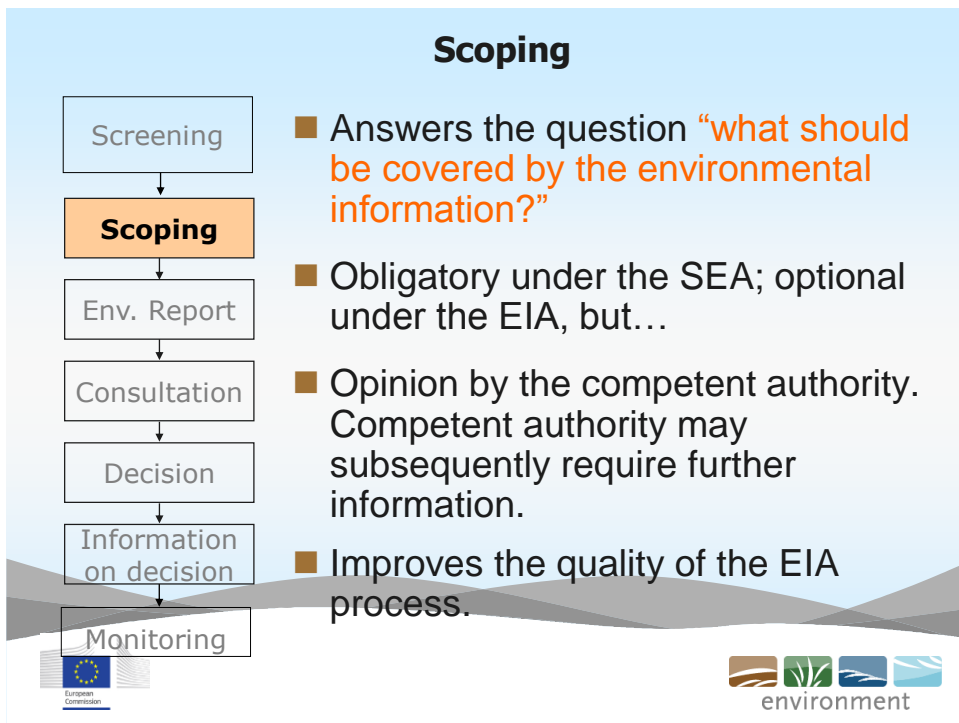
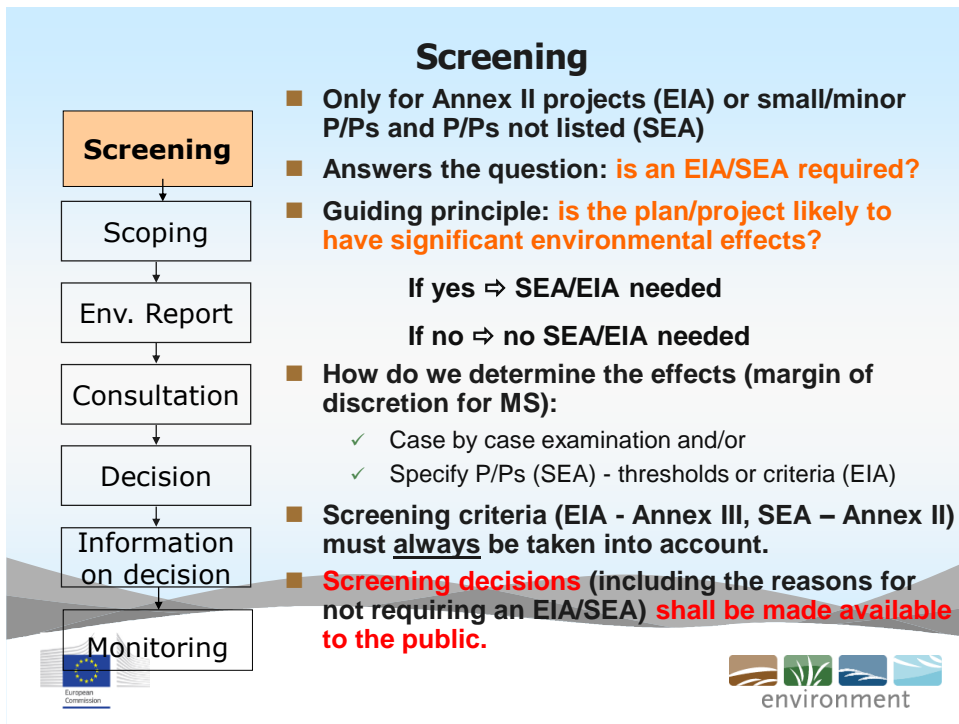
ANNEX II

- Construction of railways and roads not included in Annex I
- Waste disposal installations and waste water treatment plants not included in Annex I
- Urban development projects
- Inland waterways, flood-relief works and canalization
- Changes or extensions of Annex I and II projects that may have adverse environmental effects

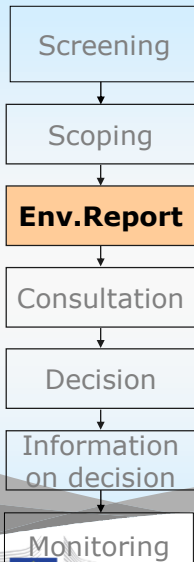


The Environmental Assessment Procedures





Environmental Report

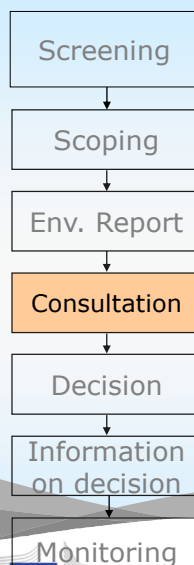


Must identify, describe and evaluate, e.g.:

- The environmental characteristics of aspects/areas likely to be significantly affected.
- The likely significant environmental effects of the plan/programme/project (including indirect and cumulative effects).
- Alternatives (reasonable+zero/SEA or main alternatives studied by the developer/EIA) and reasons for the choice.
- Mitigation measures
- [Monitoring measures and arrangements]
- Non-technical summary



Consultations



1. Environmental authorities

- in several stages (screening, scoping, report)
- on the draft plan/programme or request for development consent
- the environmental "report"

2. The public (including NGOs)

- on the draft plan/programme
- the environmental "report"

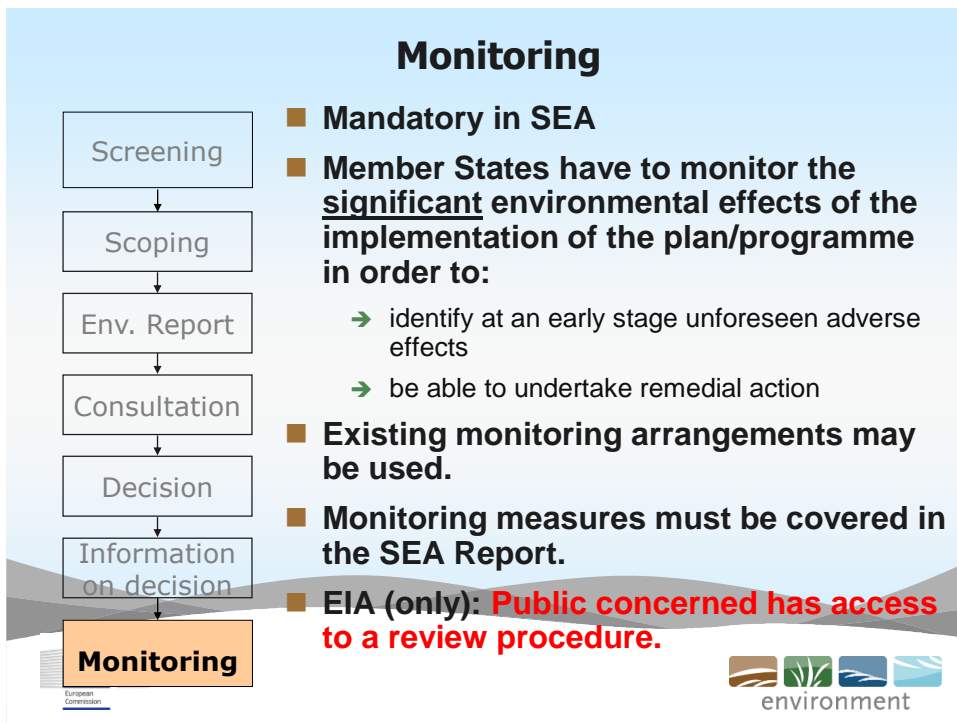
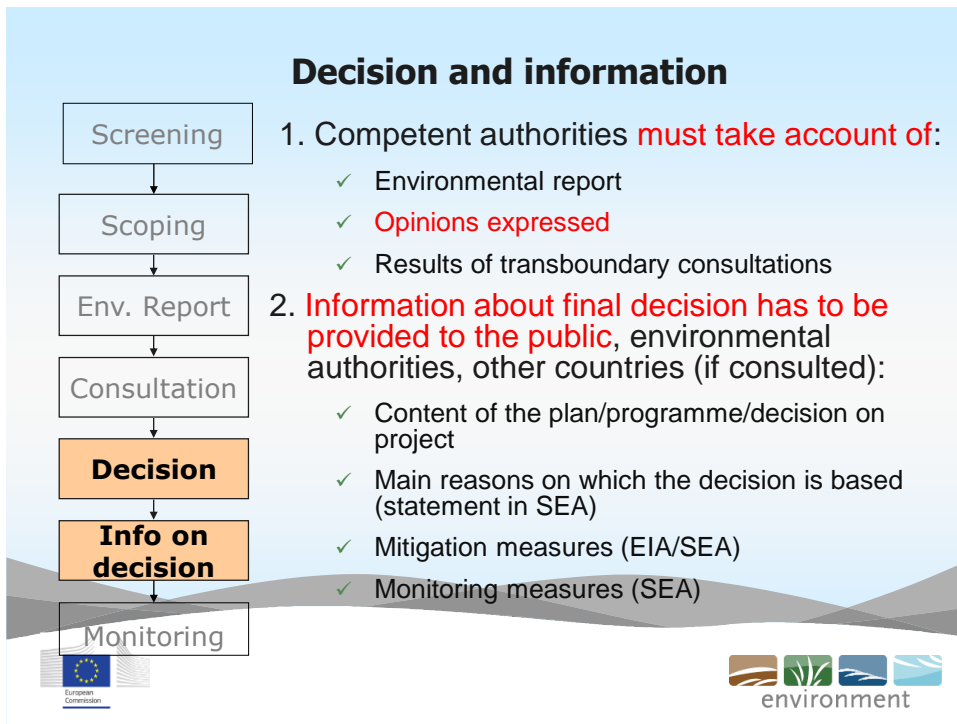
3. Transboundary consultations (Espoo)

- on the draft plan/programme
- the environmental "report"

Modalities:

- early and effective opportunities to participate
- when all options are open
- reasonable time-frames



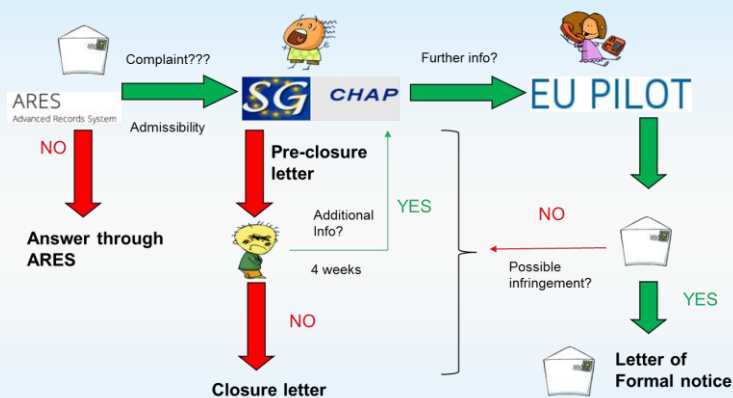


Interpretation of the EIA Directive

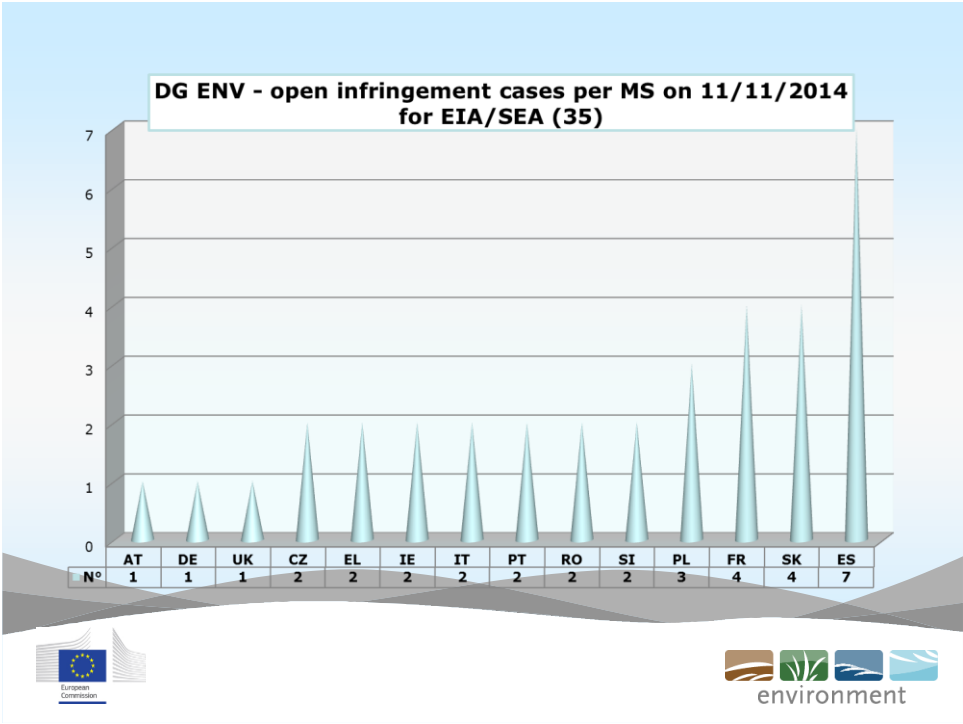
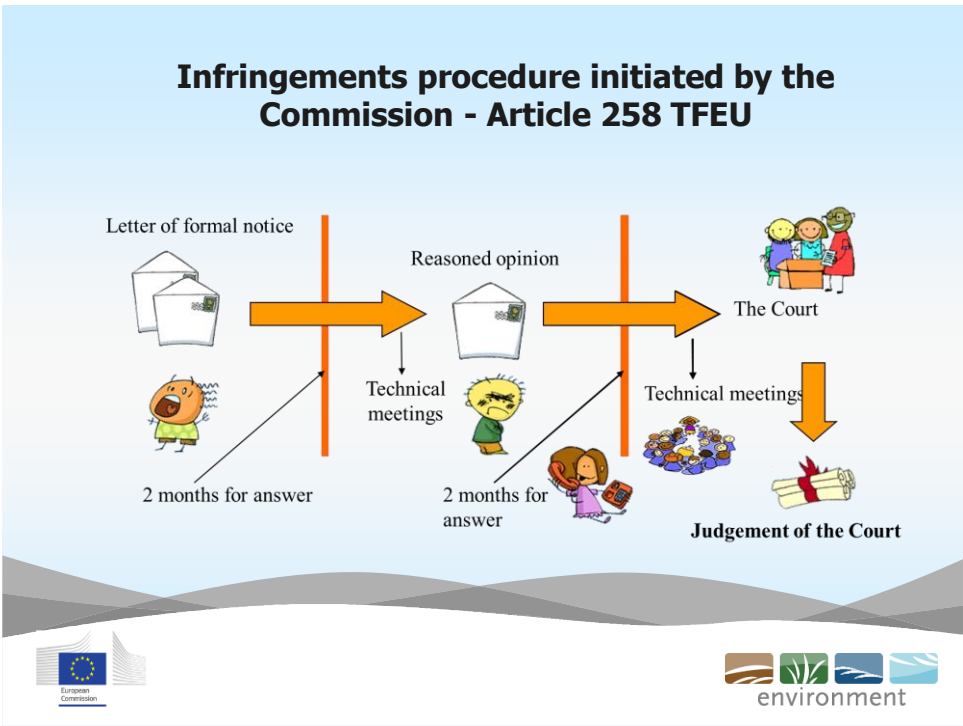
- The interpretation of the EIA Directive is not static, but it is subject to interpretation by the Court.
- Infringements procedure initiated by the Commission (Art.258 TFEU) or references by national courts (Art.267 TFEU)
- **Infringement can be initiated based on a complaint (including from NGOs)**
- Considerable body of case law, but need to apply judgments carefully.
- ECJ rulings mainly concern the EIA but are also relevant for the SEA.



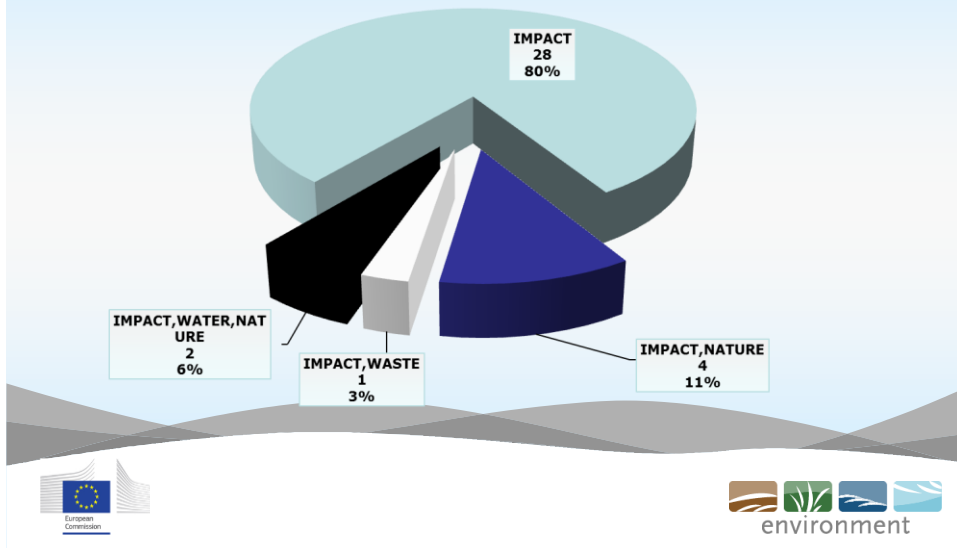
Handling of complaints - lifecycle



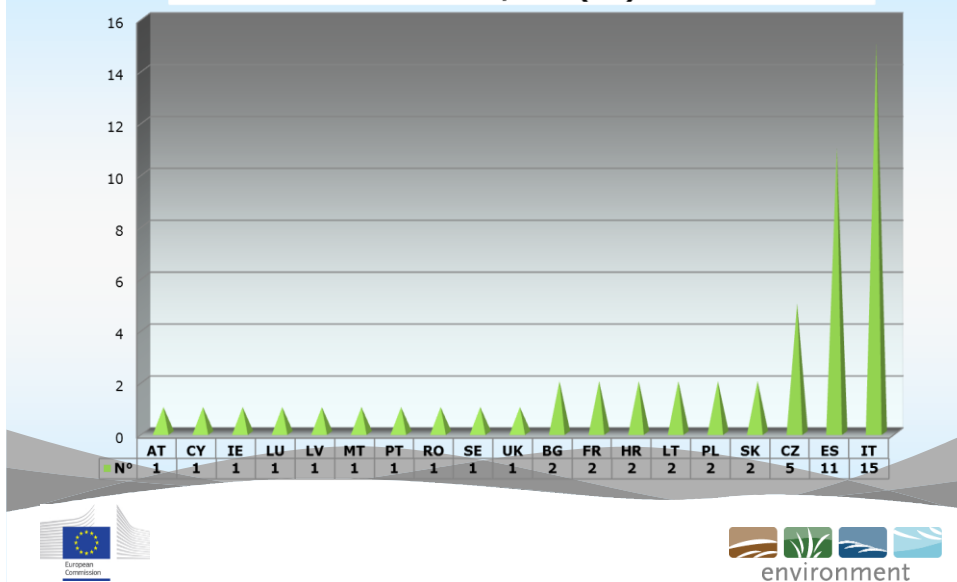
Infringements procedure initiated by the Commission - Article 258 TFEU



DG ENV - open infringement cases per sector on 11/11/2014 for EIA/SEA (35)



DG ENV - open EU Pilot files per MS on 11/11/2014 for EIA/SEA (53)



EIA Directive revision - Directive 2014/52/EU

25 April 2014 – publication in OJ

16 May 2014 – entry into force of Directive 2014/52/EU

Till 16 May 2017 – transposition/application in Member States

General objective of the revision: adjust the EIA Directive in order to:

- correct identified and persisting shortcomings.
- reflect ongoing environmental and socio-economic priorities and challenges.
- align with the principles of smart regulation.
- reflect the ECJ case-law.

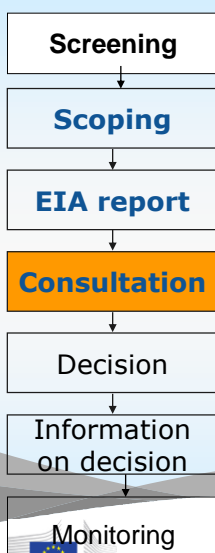
Text of Directive 2014/52/EU: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2014.124.01.0001.01.ENG

Unofficial consolidated text:

http://ec.europa.eu/environment/eia/pdf/EIA_Directive_informal.pdf



Consultations – Art. 6 and 7



- Broadened scope: local and regional authorities clearly spelled out as bodies to be consulted.
- **Reinforced modalities:**
 - ✓ Public to be informed electronically and by public notices (Art.6 (5))
 - ✓ Relevant information electronically accessible to the public, through at least a central portal or easily accessible points of access, at the appropriate administrative level (Art. 6 (5))
 - ✓ Reasonable time-frames for the different phases of the decision-making (Art. 6(6)).
 - ✓ Time-frame for consulting the public concerned on the EIA report - at least 30 days (Art. 6(7)).
- Transboundary consultations:
 - ✓ Consultations may be conducted through an appropriate joint body (Art.7(4)).
 - ✓ Time-frames for public consultation to be set (Art. 7(5)).



EIA/SEA Guidance

Please visit the EIA / SEA Homepage:

<http://ec.europa.eu/environment/eia/home.htm>

- **Guidance on the implementation of the SEA Directive**
- **Guidance and checklists on the EIA Directive**
 - Per stage (screening, scoping, EIS review)
 - Project categories
 - Indirect, Cumulative Impacts & Interactions
 - Climate/biodiversity
 - Transboundary projects
- **Studies and reports on the implementation of the EIA/SEA**
- **ESPOO Convention and SEA Protocol**



Thank You

<http://ec.europa.eu/environment/eia/home.htm>

