



Streamlining of environmental assessment procedures for energy infrastructure projects of common interest (PCIs) (EIA and SEA Directives)

Brussels, June 2015



DG ENVIRONMENT

Legislative background

- **New TEN-E Regulation** (Regulation (EU) No 347/2013; OJ L 115/39) adopted on 17 April 2013
- Entry into force on 15 May 2013
- Entry into application on 1 June 2013

The new TEN-E regulation

Process to identify projects of common European interest, with involvement of all stakeholders



Benefits

Accelerated permit
granting

3.5
years

One
stop
shop

Public
participati
on

Improved
Regulatory
treatment

Incentives

Cost
allocation

Financial support

Financial
instru-
ments

Grants

Accelerated permit granting/ 1

- **Time-limits (Art. 10)**

- **Pre-application phase:** From start of permit granting process to acceptance of submitted application file by the competent authority. Indicative period of **2 years**.
- **Statutory permit granting procedure:** From the date of acceptance of the submitted application file until the comprehensive decision is taken. This procedure shall not exceed **1.5 years**.
- The **combined duration** of the two phases shall not exceed a period of **3.5 years**, with a possible 9-month extension.
- Time-limits are without prejudice to obligations arising from international and Union law (Art. 7(6)).

Accelerated permit granting / 2

- **One-stop-shop approach, national competent authority (Art. 8)**
 - **By 16 November 2013**, each MS had to designate one national **competent authority** responsible for facilitating and co-ordinating the PCI permitting process (delegation possible)
 - MS had to choose one of three possible schemes to implement **one-stop-shop (integrated/co-ordinated/collaborative scheme)**
 - Efficient co-ordination and co-operation in the case of **transboundary** projects

Accelerated permit granting/3

- **Transparency and public participation (Art. 9)**
 - **By 16 May 2014**, MS had to publish **manual of procedures** for the permit granting process of PCIs, accessible to public
 - Project promoter has to develop and submit **concept for public participation** for approval of the competent authority
 - **Cross-border** public consultation
 - Project promoter or competent authority shall establish **website** with relevant information on PCIs

Accelerated permit granting / 4

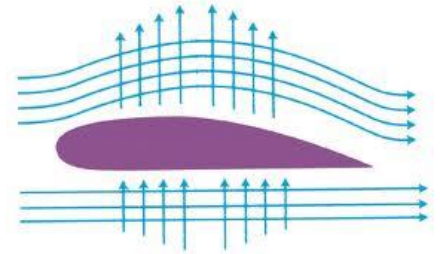
- **Streamlining environmental assessment procedures (Art. 7)**
 - *"By 16 August 2013, the **Commission shall issue non-binding guidance** to support Member States in defining adequate **legislative and non-legislative measures to streamline the environmental assessment procedures** and to ensure the coherent application of environmental assessment procedures required under Union legislation for projects of common interest".*

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

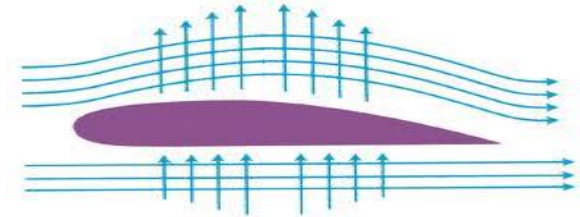
(issued on 24 July 2013)

Purpose of the Guidance

- **To support MS** in defining adequate legislative and non-legislative measures to streamline environmental assessment procedures,
- based on, but going beyond, the implementation experience and the **good practices** identified so far in MS,
- with a view to meeting the **time-limits** for permitting under the new TEN-E Regulation,
- whilst at the same time respecting the **requirements of EU environmental law**.



What is streamlining?



"**Streamlining**" means:

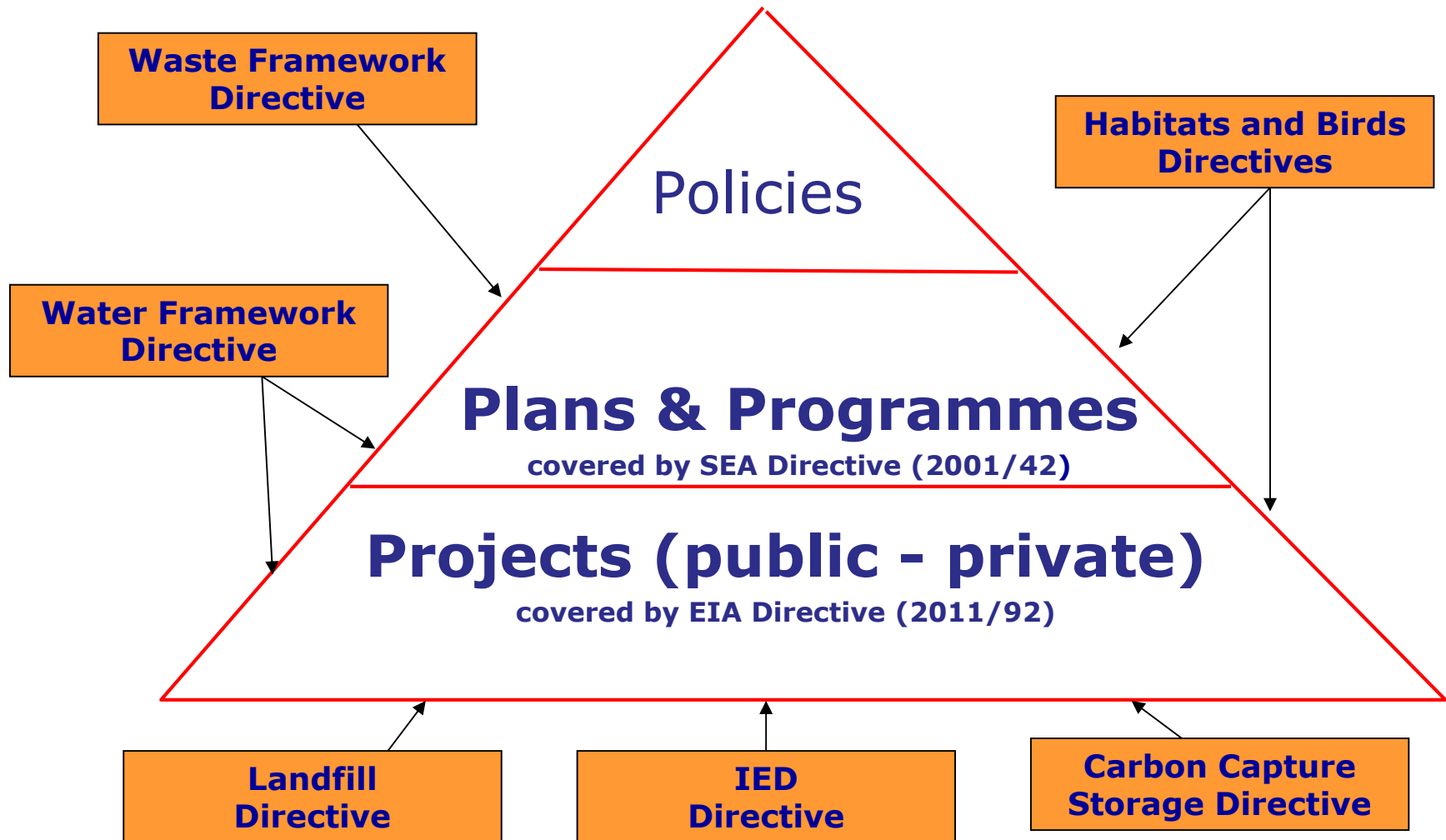
- improving and **better co-ordinating** environmental assessment procedures,
- with a view to **reducing unnecessary administrative burden**, creating synergies and hence **shortening** the time needed to conclude the assessment process,
- whilst at the same time ensuring a **high level of environmental protection** through comprehensive environmental assessments in accordance with the EU environmental *acquis*.

Environmental assessments required under Union law

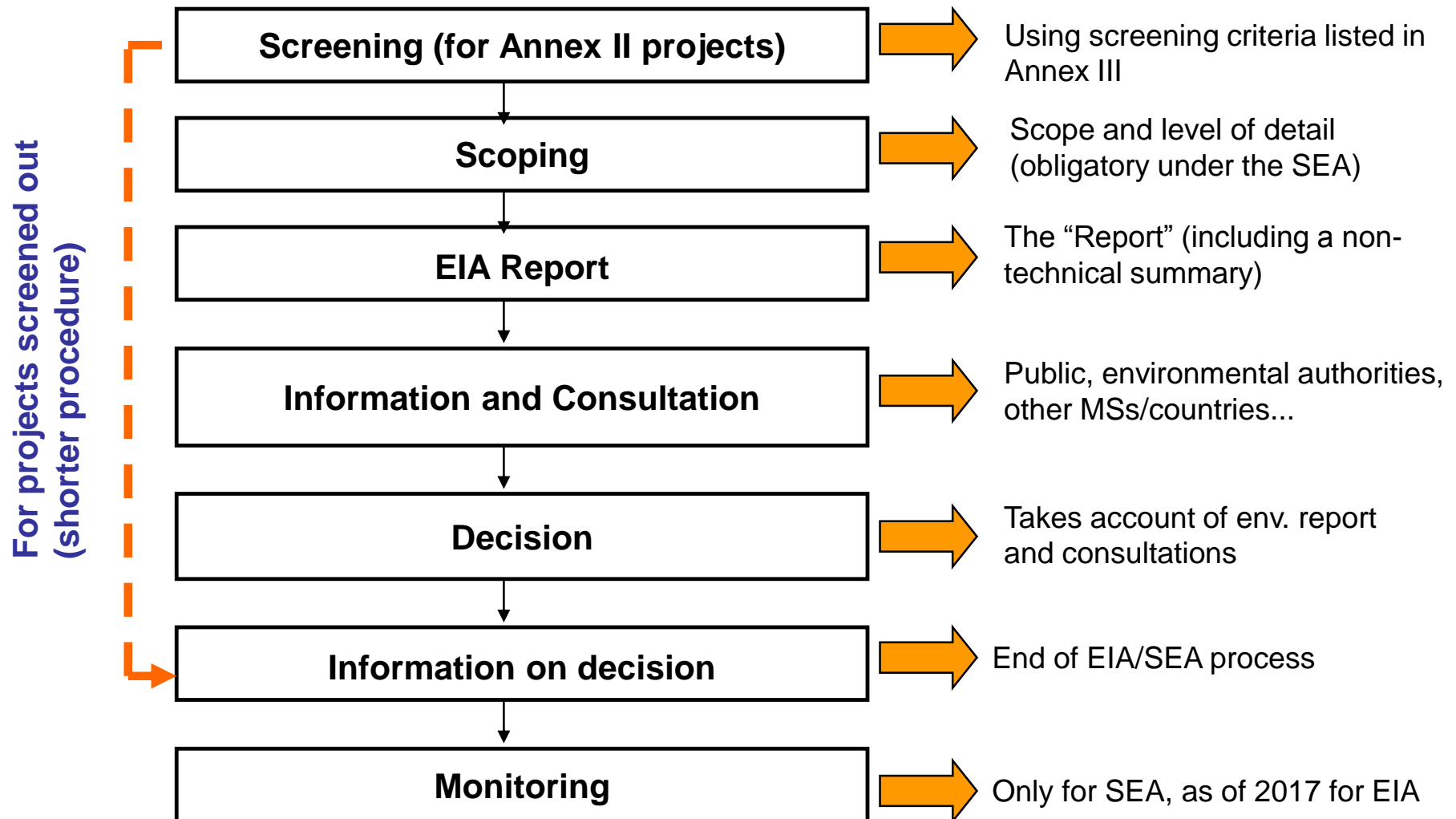
- EIA Directive
- SEA Directive
- Birds and Habitats Directives
- Water Framework Directive (WFD)
- Marine Strategy Framework Directive (MSFD)
- Seveso II and Seveso III Directives
- Industrial Emissions Directive replacing the Integrated Pollution Prevention and Control (IPPC) Directive
- UNECE Conventions :
 - Espoo Convention on EIA in a transboundary context
 - SEA Protocol to the Espoo Convention
 - Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters



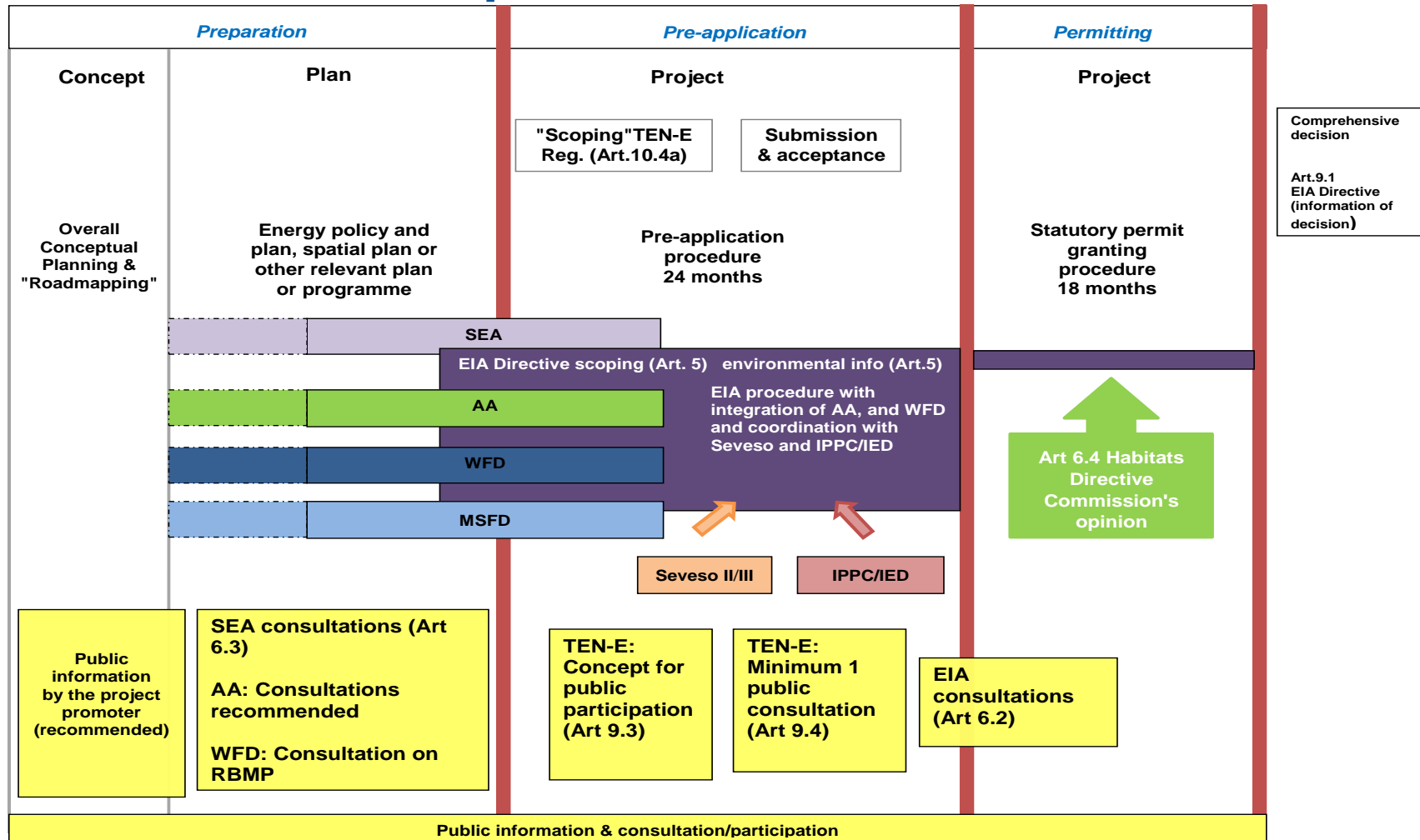
Environmental Assessments



The Environmental Assessment Procedures



Guidance – relevant phases



Recommendation 1:

Early planning, "roadmapping" and scoping of assessments



- Early planning and "roadmapping" should be developed already at the concept stage of a PCI.
- Identify which type of assessment should take place at what point in the overall assessment process.
- Main responsibility of the promoter (in cooperation with co-ordinating authority).
- Perform **early scoping** of potential environmental effects at the concept stage of a PCI to identify key assessment issues up front and to the extent possible (e.g. reasonable alternatives).
- This will complement and **save time** in later scoping at the plan stage and at the pre-application phase.

Recommendation 2:

Early and effective integration of environmental assessments and of other environmental requirements

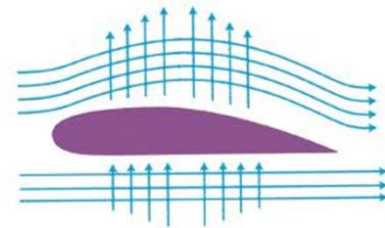


- Perform environmental assessments **as early as possible** and to the level of detail possible.
- Make **SEAs** and if applicable **AAs mandatory at the planning** stage of national energy policy plans (e.g. network development plans).
- **Integrate** all relevant **environmental requirements** in the assessment process (e.g. nature, Water FD/RBMP, climate).
- Ensure **effective tiering** to avoid both overlaps and gaps in the assessments (also part of the roadmapping of assessments).

Recommendation 3:

Procedural co-ordination and time limits

- It is recommended to choose the integrated or the coordinated permitting approach -> best streamlining effects;
- Endow the designated competent authority with strong co-ordinating competences as regards the organisation of environmental assessment procedures;
- Set time limits for (parts of) the environmental assessment procedures to reduce unnecessary delays & encourage synergies.
- Public participation phase: comments on the EIA report -> 30 to 60 days (based on MS experience).



Recommendation 4:

Data collection, sharing and quality control



- Start data collection (as soon as possible)
- Set up data bases (e.g. managed by competent authority) and share data (including with other Member States)
 - More transparency
 - Legal certainty
- Establish ex-post monitoring schemes to assess whether mitigation/compensation measures are implemented and effective.
- Use technical experts and independent quality control to ensure that assessment reports are robust and the data used are valid and relevant.
- Develop guidance and ensure training.



Recommendation 5:

Cross-border co-operation

- Art. 8(5) TEN-E Regulation requires efficient and effective transboundary co-operation and co-ordination, including on pre-application phase.
- Joint assessment procedures and public consultations.
- Need for strong co-ordination (i.e. co-ordination body).
- Cross-border mechanisms could be set in bi- or multilateral agreements by MSs or regions, on a case-by case approach or per PCI category (e.g. Espoo Convention).



Useful guidance -

<http://ec.europa.eu/environment/eia/pdf/Transboundary%20EIA%20Guide.pdf>

Recommendation 6: **Early and effective public participation**

- Early information and involvement is crucial!!
- When? Ideally at conceptual stage – when all options are open.
- Roadmapping should set out different stages of public consultation in the overall process (e.g. public scoping events).
- As for assessments, there should be efficient tiering of public participation to avoid both gaps and overlaps.
- It is strongly recommended to consult the concerned public also about possible impacts to Natura 2000 sites.



Directive 2014/52/EU – overview (*)

Modification of Annex III criteria

Alternative procedure for Annex II projects

Justification of negative screening decisions

Screening

Article 4
Annex III
Annex II.A

Mandatory assessment of alternatives

Additional environmental issues

Mandatory scoping

Quality control of the EIA information

Justification of final decisions

Mandatory post-EIA monitoring

**EIA quality
and
analysis**

Article 3
Article 5
Article 8
Article 9
Annex III
Annex IV

Mandatory coordinated/integrated procedure

Specific **time-frames** for public consultation

Maximum time-frames for decision-making

**Risk of
inconsistencies**

Article 2.3
Articles 6/7
Article 4.6
Article 8.3

*** In red changes compared to the COM proposal**

Transitional provisions – Art. 3 of Directive 2014/52/EU

- Projects for which the screening was initiated before 16 May 2017 shall be subject to the provisions of Directive 2011/92/EU (i.e. current regime).

- Projects for which:
 - the scoping was initiated or
 - the EIA report was submitted by the developerbefore 16 May 2017 shall be subject to the provisions of Directive 2011/92/EU (i.e. current regime).



Thank you for your attention!

More info:

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

