

# Projects covered by Annex I and Annex II of the EIA Directive

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# Key environmental information in the Major Project Application Form (MPAF) (1)

**In section D** (FEASIBILITY STUDIES CARRIED OUT, INCLUDING OPTION ANALYSIS, AND THE RESULTS) such as:

**D.1.2** *Please outline the alternative options considered in feasibility studies (max. 2-3 pages) in accordance with the approach as set out in Annex III (Methodology for carrying out the cost-benefit analysis) to this Regulation. At least the following information should be included:*

*.....(ii) Options for scale (against technical, operational, economic, environmental and social criteria) and options for location of the proposed infrastructure;*

*.....*

**D.2.2** *Please specify the criteria considered in selecting the best solution (with ranking of their importance and method of their evaluation, reflecting the outcomes of the climate change vulnerability and risks appraisal and of the EIA/SEA procedures as appropriate (see: section F below) and briefly present a justification for the option chosen in accordance with Annex III (Methodology for carrying out the cost-benefit analysis) to this Regulation*

## Section F, with Appendices 1, 2 and 3

F.1. Consistency of the project with environmental policy

F.2. Application of Directive 2001/42/EC of the European Parliament and of the Council (1) (the 'SEA Directive')

F.3. Application of Directive 2011/92/EU of the European Parliament and of the Council<sup>(3)</sup> (the 'EIA Directive')

F.4. Application of the Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (1) (Habitats Directive); assessment of effects on Natura 2000 sites

F.5. Application of Directive 2000/60/EC of the European Parliament and of the Council<sup>(3)</sup> (the 'Water Framework Directive'); assessment of effects on water bodies

F.6. Where applicable, information on compliance with other environmental directives

F.7. Cost of measures taken to mitigate and/or compensate negative environmental impacts, in particular resulting from the EIA procedure or other assessment procedures (such as the Habitats Directive, the Water Framework Directive, the Industrial Emissions Directive) or national/regional requirements

## **Section H.** THE TIMETABLE FOR IMPLEMENTING THE MAJOR PROJECT

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**H.2.2:** Please describe the project timetable (J.1) in terms of the technical and financial progress and current maturity of the project under the following headings:  
*...Administrative with a minimum reference to necessary authorisations such as EIA, development consent, territorial/ planning decisions, land purchase (if relevant), public procurement etc.:*

**However besides the obvious, other sections can be equally important when reviewing the completeness and correctness of environmental procedures, such as sections covering Project :**

- Description (section B),
- Cost (Section C)
- Risk assessment (Section E.3.3)
- Risk assessment (Section G.2)
- Timetable and Studies (Section H)

**The Application Form should be one comprehensive document therefor the environmental information (mainly provided in section F) needs to be coherent with the other parts of the Application Form.**

# Before going in to the details of sections F.3.3 and F.3.4...

The entire project, as described in Sections B and C, needs to be covered by environmental procedure(s), as necessary!

Modifications introduced after the environmental procedures were completed, need to be properly addressed!

Any gaps should be identified as early as possible in order to take action in a timely manner!

Examples:

After a positive screening, an EIA was done in the past for a suburban railway line from A to B. After the screening was completed, the renovation of two stations was also decided as well as the addition of a large park and ride facility. The stations and the park and ride facility are not covered by the existing EIA.

A negative screening determination was issued in the past for a WWTP with a specific population equivalent (p.e.) and treatment technology. The p.e. and the technology were reconsidered before the project was submitted for funding

# When an EIA was done...

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**F.3.3** *When covered by Annex I to the EIA Directive, include the following documents (as Appendix 6) and use a text box below for additional information and explanations <sup>(1)</sup>:*

- (a) The Non-Technical Summary (NTS) of the EIA Report <sup>(2)</sup>.
- (b) Information on consultations with environmental authorities, the public and if applicable, consultations with other Member States, carried out in accordance with Articles 6 and 7 of the EIA Directive.
- (c) The decision of the competent authority issued in accordance with Articles 8 and 9 of the EIA Directive <sup>(3)</sup>, including information on how it was made available to the public.

**F.3.4** *When covered by Annex II to that Directive, has an EIA been carried out?*

**Yes**

No

If the reply is 'Yes', please include the necessary documents listed under point F.3.3

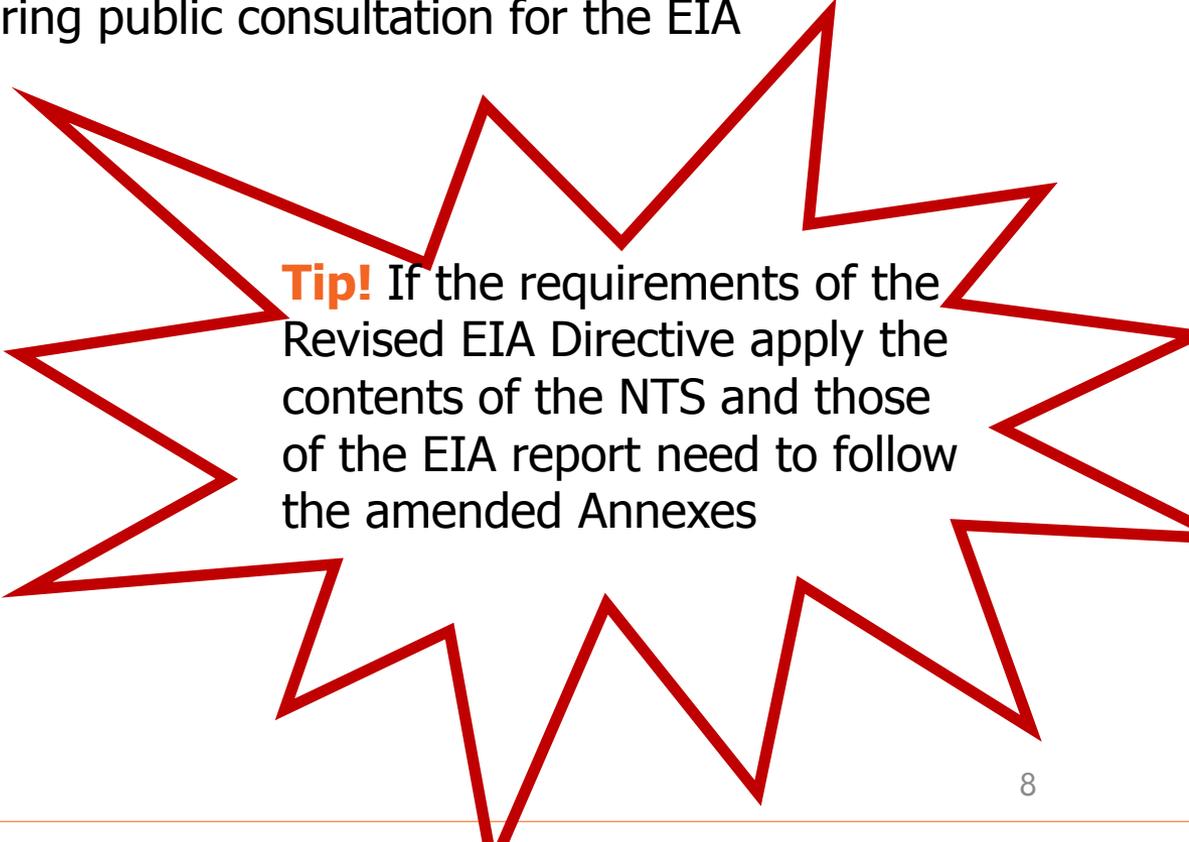
# The Non Technical Summary of the EIA report...

Provide the NTS as used for the public consultation

- This can be a chapter of the EIA report (in cases where the entire EIA report is used for consultation)
- or
- a standalone document. In this case, it should be evident that it is a copy of the document used during public consultation for the EIA

The NTS should be compliant with Article 5 and Annex IV to the EIA Directive.

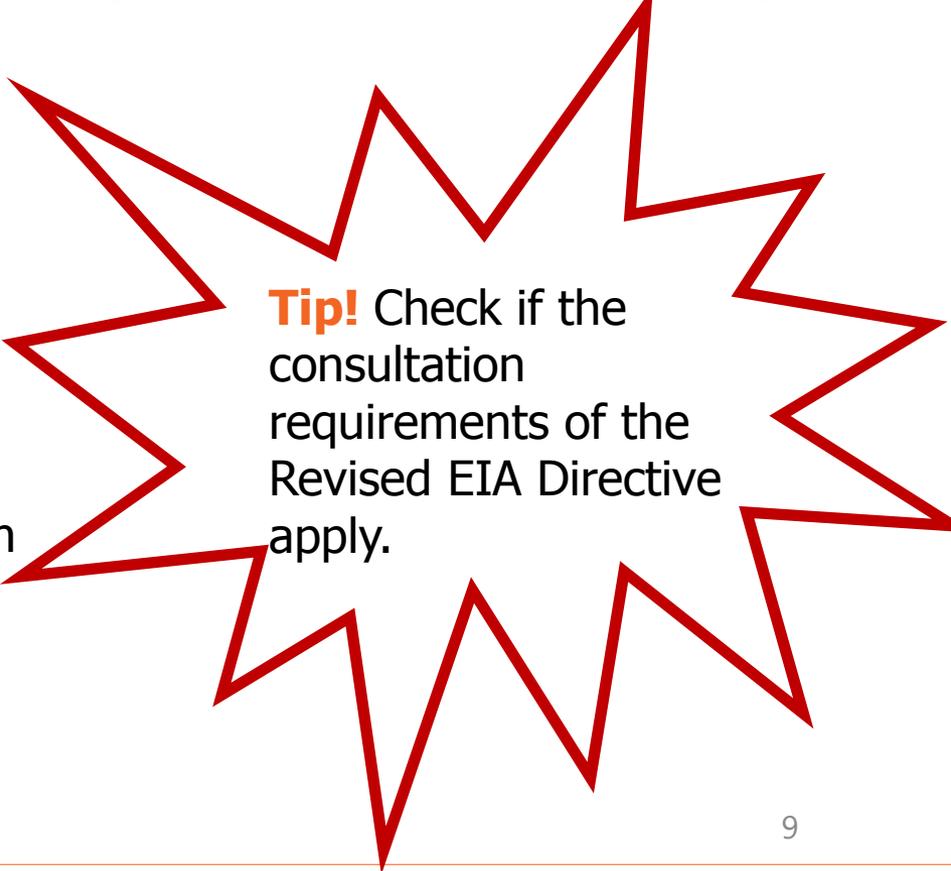
If there could be uncertainty about the above, provide the entire EIA report, (as it was made available to the public for consultation).



**Tip!** If the requirements of the Revised EIA Directive apply the contents of the NTS and those of the EIA report need to follow the amended Annexes

# Information on consultations...

- with Environmental Authorities (very often adequately available in the EIA Decision)
- with the public (usually also available in the EIA Decision and/or other dedicated documents, however the necessary details might require additional inquiries)
  - ✓ Type of public announcement,
  - ✓ Availability of announcement,
  - ✓ Availability of documents (standalone NTS, entire EIA report?)
  - ✓ Consultation period and deadline
  - ✓ for comments,
  - ✓ Public hearings dates and participation
  - ✓ Overview of comments received



**Tip!** Check if the consultation requirements of the Revised EIA Directive apply.

# Information on consultations...

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- If the EIA procedure was concluded with a non-binding EIA Decision/Opinion/Statement then the information needs to be provided of all stages of the multistage development consent procedure.
- Avoid using generic text (e.g. according to the national legislation consultations are obligatory... or ...the decisions are made available to the public).

# Information on consultations... transboundary context

- If a project is likely to have significant effects on the environment of another Member State (MS), provide the information that demonstrates compliance with Article 7 of the EIA Directive (such as information sent according to Article 7(1)(a) and (b), time given to the affected MS to reply, additional information provided in cases the affected MS indicates that it wishes to participate in the decision-making, consultations held with authorities and the public concerned...).
- If transboundary consultations were not held and the likelihood of significant transboundary impacts cannot be excluded from the outset, a justification should be provided.



# The Decision .....issued in accordance with Articles 8, 8a and 9 of the EIA Directive

- If in doubt about the what constitutes “the Decision... issued in accordance with Articles 8, 8a and 9”, consult with your national competent authority.
- In cases of multistage development consents, provide the decisions from all stages (e.g. EIA and construction permit). If in
- For every decision explain how it was made available to the public.
- **Do not forget about footnote 3:** In the cases where the EIA procedure has been completed with a legally binding decision, pending the issuing of development consent in accordance with Articles 8, 8a and 9 of Directive 2011/92/EU, the availability of a written commitment by the MS for timely action to ensure that the development consent would be issued at latest before the start of works.
  - ✓ If the Application Form is uploaded in SFC, just click on the dedicated question box in Section F.3.3;
  - ✓ If the Application is not uploaded in SFC a way could be to introduce the relevant statement in the text box of Section F.3.3.

*Footnote (1): The additional information should focus on selected elements of the EIA procedure important for the project (e.g. data analysis, studies and assessments, additional consultations with the competent authorities and the public, determination of additional compensation/ mitigation measures, additional 'screening' decision etc., when changes in the project are likely to be identified) that needs to be carried out, in particular as part of multi-stage development consent processes.*

## **The above are just indicative and it is recommended to also provide the following information that facilitates review:**

- The date of request of a scoping decision?
- The applicable national legal context at the time of the environmental decision-making and at the time of submission for funding?
- The way public comments were considered (if not available in the attached decisions in Appendix 6)
- Reference to any additional compliance checks (if e.g. necessary as a result of non-fulfilment of the EIA/SEA *ex-ante* conditionality at the time of the Partnership Agreement.

- In case of no timely transposition of the Revised EIA Directive: explain how the compliance was ensured *ad hoc*:
  - ✓ Make a statement about the EIA procedure under the Revised EIA Directive: explain when the transposition was completed and provide dates of the key stages of the EIA procedure for the project and thus demonstrate compliance with the Directive before/after the Revision, as the case may be;
- Make a statement who under national legislation has access to justice with regards to the EIA negative screening decision/the EIA decision/the development consent;
- Make a statement if anybody, incl. an NGO, was denied access to justice with regards to EIA negative screening decision/the EIA decision/the development consent for the project;
- Make a statement if the EIA decision/the development consent have been appealed. If yes, provide details about the status of the appeal procedure;

## **F.3.4** *When covered by Annex II to that Directive, has an EIA been carried out?*

**No** Yes

— If the reply is 'No', please include the following information:

- (a) The determination required in Article 4.4. *(or 4.5 of the Revised EIA Directive)* of the EIA Directive (known as 'screening decision').
- (b) The thresholds, criteria or case by case examination carried out to reach the conclusion that an EIA was not required (this information is not needed, if it is already included in the decision mentioned under point (a) above).
- (c) An explanation of the reasons why the project has no significant environmental effects, taking into account the relevant selection criteria listed in Annex III to the EIA Directive (this information is not needed, if it is already included in the decision mentioned under point (a) above).

# When a negative screening determination was issued... (2)

- Provide the screening determination (“screening decision”). State how it was made available to the public and if possible the date it was requested.
- If not already included in the decision (note: compliant only in if the Revised EIA Directive was not yet applicable), provide an explanation of the reasons why the project has no significant environmental effects, taking into account the relevant selection criteria listed in Annex III to the (Revised) EIA Directive.

## Tips!

- The explanation needs to be more than “...Annex III selection criteria of the EIA Directive were considered...”
- The underlying screening documentation could be a source of information
- In particular, in cases of more than one environmental procedure/screening evidence that cumulative impacts were addressed and considered.
- It helps to make a statement if the EIA negative screening has been appealed. If yes, provide details about the status of the appeal procedure;
- In case of no timely transposition of the Revised EIA Directive: explain how the compliance was ensured *ad hoc* (beware of amended selection criteria in Annex<sup>6</sup>III).

# More Information

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**For info or further questions on this seminar and the activities of the JASPERS Networking Platform, please contact the JASPERS Networking and Competence Centre at the following email:**

**[jaspersnetwork@eib.org](mailto:jaspersnetwork@eib.org)**

**JASPERS Website:**

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