

UEPC Position Paper

ENVI Committee Amendments to the Commission proposal on the assessment of the effects of certain public and private projects on the environment

Overview

The European Union of House Builders and Developers (UEPC) takes a close interest in discussions in the European Parliament and Council on the Commission proposal on the assessment of the effects of certain public and private projects on the environment. UEPC would like to offer its views in the light of the discussions underway in the run up to the vote foreseen for 4 July.

We support a number of amendments tabled by the Rapporteur and ENVI Committee members aimed at reducing the administrative burden on developers and specifically:

- where a deadline is exceptionally extended the competent authority must inform the developer in writing (Rapporteur's Amendment 24)
- removing the obligation for technically competent experts to be accredited (Rapporteur's Amendments 28-32) since this would involve considerable implementation difficulties for the Member States and for economic operators who often already have valid internal expertise;
- limiting the amount of information to be provided (Amendments 193 and 194)
- reducing time delays for administrative decisions (Amendments 222 and 223) ensuring legal certainty and avoiding delays in the development of projects
- limiting the presentation of alternatives to the project concerned to those which are relevant to the significant impacts of the project since this would otherwise create a disproportionate burden (Amendments 240 and 242)
- enhancing flexibility with regard to conditions for development consent (Amendments 378, 379 and 380).

In other areas of the Directive, particularly in relation to the deadlines for granting of approvals and extensions, UEPC considers that the Commission's proposed maximum timeframes – which the Rapporteur supports – are too long and threaten the viability of certain projects.

UEPC is also concerned that proportionality must be respected, and considers that the screening procedure is not necessary when it concerns projects that are the implementation of:

- plans and programs which determine the use of small areas at local level and
- minor modifications to plans and programs

under the condition that it has been determined that these plans and programs are not likely to have significant environmental effects in conformity with Directive 2001/42/EC.

Comments on amendments

Achieving an appropriate timeframe for the approval of projects

Under the Commission proposal, competent authorities would have complete discretion to hold up projects for six months, which means that many projects would not be realized simply due to bureaucracy. We support reducing this to a more reasonable timeframe - noting that the deadline in the UK is only three weeks - to provide greater certainty to developers. Furthermore, it is proposed that the justification of the extension shall also be provided to the developer, in the interests of promoting certainty and good governance.

We support:

- **Amendment 222 by Holger Krahmer and Britta Reimers**, which removes the reference to the power of the competent authority to extend the deadline by 3 months
- **Amendments 223 and 391 by Struan Stevenson** which improve the original text by referring to an extension of thirty days and by bringing forward the need for the competent authority to inform the developer in writing.

We disagree with Amendment 225 by Cristina Gutierrez-Cortines and Pilar Ayuso which advocates an extension of deadline for a period longer than that proposed by the Commission.

If it is not possible to find an agreement on reducing the timeframes, then we would prefer to leave this issue to the Member States as proposed in Amendment 226 by Pavel Poc.

Ensuring the use of qualified and independent experts

We believe that EIAs should be conducted by 'qualified and technically competent' rather than 'accredited' experts. This argument is based on the plausible fact that as a matter of national competence the process of accreditation of experts differs among the various Member States and this could lead to implementation difficulties.

We support Amendments 297, 307 and 320 by the Rapporteur Andrea Zanoni, Cristina Gutierrez-Cortines, Kriton Arsenis and Pilar Ayuso which puts the focus on the importance of having 'independent' experts who will operate in an impartial manner and without any external interference.

Limiting the amount of information to be provided

We believe that the screening process should be limited to description summaries and a limited time for the authority to make a decision. The screening process proposed by the Commission is controversial as it widens dramatically the purpose of screening a project before conducting an EIA. Under the provisions of the screening process proposed developers will run the risk of being asked to provide a critically large amount of information and this will add to the current administrative burden.

We welcome amendments which seek to eliminate the administrative burden such as:

- **Amendment 193 (Karl-Heinz Florenz, Holger Krahmer, Erik Banki, Horst Schnellhardt, Britta Reimers, Sophie Auconie, Esther de Lange, Richard Seeber and Zofija Mazej Kukovic)** which advocates that the amount of information to be provided by the developer for case-by-case screening should not be expanded;
- **Amendment 194 by Struan Stevenson** where it is noted that the screening process should not consist of an analysis as comprehensive as the EIA as the developer should not have to do an initial EIA in order to do a final EIA;
- **Amendment 83 (Cristina Gutierrez-Cortines and Pilar Ayuso)** which refers to the need to distinguish between large-scale and small-scale projects as the latter ones should quite reasonably be required to provide a smaller amount of information;
- **Amendment 85 (Cristina Gutierrez-Cortines and Pilar Ayuso)** which mentions that developers should submit a statement of intent which will never exceed 30 pages.
- **Amendment 200 (Cristina Gutierrez-Cortines and Pilar Ayuso)** which introduces a provision for the screening process to be kept at a minimum and limited to the key aspects.

Simplifying processes for administrative decisions

We believe that as administrative procedures are poised to become overly complicated, leading to unprecedented levels of bureaucracy it is vital that the new Directive secures a viable administrative environment for businesses to carry out their operations. In a bid to enhance our argumentation on the need to minimize administrative procedures and the ensuing time delays we support an array of amendments including:

- **Amendment 64 (Cristina Gutierrez-Cortines, Kriton Arsenis and Pilar Ayuso)** which notes that the Directive should aim to simplify the administrative procedures;
- **Amendment 87 (Cristina Gutierrez-Cortines, Kriton Arsenis, Andrea Zanoni and Pilar Ayuso)** which calls for the simplification of the procedures.

Limiting the presentation of alternatives to the project concerned

We strongly agree with the point made by Struan Stevenson during the 19 June debate that the *“EIA text is unrealistic in asking from the developers to provide alternatives for which they have no expertise or responsibility”*. We also echo Holger Krahmer’s statement that *“according to the current proposal competent authorities would have to look at what alternatives there are and then oblige developers to construct the alternative scenario if they feel it is better than the proposed one which is going a bit too far in intervening into business”*. To that end, we support amendments advocating that developers will only be obliged to present an outline of alternatives to their original proposal and more particularly:

- **Amendment 240 (Elisabetta Gardini, Paolo Bartolozzi and Salvatore Tatarella)** which states that an outline of alternatives relevant and specific to the proposed project will be required from the developer;
- **Amendment 242 (Karl-Heinz Florenz, Holger Krahmer, Erik Bnaki, Horst**

Schnellhardt, Britta Reimers, Sophie Auconie, Esther de Lange and Richard Seeber) which refers to the obligation of the developer to consider alternatives which take into account the specific features of the project and which could achieve its main objectives to the same extent;

- **Amendment 276 (Cristina Gutierrez-Cortines and Pilar Ayuso)** which explicitly notes that 'reasonable alternatives' do not entail carrying out a new project or one parallel to the main project;
- **Amendment 558 by Struan Stevenson** which replaces the word 'reasonable' with 'relevant' alternatives.

Enhancing flexibility with regard to conditions for development consent

We understand that the proposed new Directive entails additional prerequisites for the development consent of the respective authorities to a proposed project. In that respect we support amendments aimed at bringing in the crucial amount of flexibility that is needed to keep the developers motivated to invest and more specifically:

- **Amendments 378 (Elisabetta Gardini, Paolo Bartolozzi and Salvatore Tatarella), 379 (Marianne Thyssen) and 380 (Giancarlo Scotta and Oreste Rossi)** advocating that the competent authorities shall consider whether measures to monitor the significant adverse environmental effects should be included in the development consent.

About the European Union of House Builders and Developers (UEPC)

The European Union of Developers and House Builders (UEPC), represents more than 30,000 developing and house building companies, affiliated with its 10 member federations. Directly or indirectly the activities of these developers and house builders represent 10% of gross national product and employment in Europe. Together, they annually build and develop several millions m² of offices and shopping centers as well as more than 1.000,000 new homes.