

EUROPEAN COUNCIL OF ENVIRONMENTAL LAW

Recommended Principles for an Environmental Impact Assessment Process

The following draft resolution has been under consideration by the European Council of Environmental Law and is being distributed as a background paper for the Berlin Working Meeting on "Projects, Policies and Environmental Impact Assessment," International Institute for Environment and Society, Science Centre Berlin, 29 and 30 May, 1978.

The Council,

Considering that the modifications effected by man on the environment and the thoughtless use of natural resources are generally irreversible;

Considering that in the elaboration of programs or projects, environmental goals must be considered alongside economic and social objectives;

Considering that the ecological consequences of programs and projects can only really be evaluated with the effective participation of concerned citizens; and

Considering that the anticipation and analysis of the possible consequences for the environment of decisions and actions envisaged by the public and private sectors can contribute to the realisation of environmental objectives and guarantee the visibility of decision making;

Recommends that

1. All management and industrial programs and projects which can degrade the environment by reason of their dimensions or their impacts on the environment should be preceded by an environmental impact statement permitting the appreciation of their consequences.
2. Each national legislature should prepare a list of actions, works and projects to be submitted to an environmental impact statement procedure.
3. Each national legislature should prepare a list of actions, works and projects which need not be submitted to an environmental impact statement procedure.
4. Independent bodies designated by each national legislature should be asked to decide whether an impact statement must be prepared in a specific case concerning an action, work or project not included in one of the lists specified in 2 and 3 above.

5. The impact statement should be filed at the very beginning of an established procedure for the authorization of the program or the project in question, or, if such a procedure does not exist, before the point at which the program or project is formally adopted or approved.
6. The impact statement should be prepared by an independent organization at the expense of the project sponsor. However, at the request of the organization charged with preparation of the statement, public agencies should lend assistance, particularly in providing information that permits an accurate description of the original state of the site of the proposed action.
7. The impact statement should include:
 - a) an analysis of the present state of the environment to be impacted by the program or project;
 - b) a summary description of the proposed action, including detailed figures where possible;
 - c) an explanation of the reasons underlying the choice of the site or location of the project or program;
 - d) the likely foreseeable effects of the implementation of the project or program on the environment, particularly direct and indirect effects, short and long term effects, temporary and permanent effects;
 - e) a description of the measures expected to be taken to reduce, compensate for, or eliminate adverse effects on the environment;
 - f) a description of the alternatives to the proposed project or program, or to certain elements of it, or to the planned site, including the alternative of maintaining the status quo (the foreseeable effects must be analysed in each case);
 - g) suggestions concerning control measures which need to be taken;
 - h) a brief resumé of the impact statement that is easily understandable by a layperson.
8. Public agencies must specify, according to the type of action, work, or project subjected to impact assessment, the specific data needed to implement the principles outlined in 7 above.
9. Public agencies may request supplementary studies, if they have reason to believe that the impact statement does not permit a thorough evaluation of the proposed project or program.
10. Before being submitted to the agency competent to grant or withhold authorization, or invested with control functions with respect to environmental protection, the impact statement should be made the subject of consultations with the public, either by placing the statement at the disposal of the public in the affected communities or by the holding of public hearings.
11. The nature of the public consultation should be announced through posted notices and through the press, and should take place sufficiently in advance for individuals and groups to inform themselves and express their objections.

12. Each national legislature should determine more precisely the procedures for public consultation that are appropriate for realization of the objectives outlined in 10 and 11 above.
13. The objections and criticisms expressed by the public with respect to an impact statement, whether in writing or during hearings, should be attached to the statement and brought to the attention of the agency responsible for granting or withholding authorization.
14. The final judgment on the adequacy of the impact statement should be made by the responsible agency after the process of public consultation is complete and the agency is in possession of all relevant information (the impact statement, information provided by the project sponsor, public comments, minutes of public hearings, advice from other public agencies, and expert evidence). These elements should be freely evaluated by the responsible agency, in the light of criteria which can be defined in advance.
15. In cases where the impact statement makes it clear that implementation of the proposed action would seriously affect the environment, the responsible agency may refuse authorization. In cases where the foreseeable effects on the environment can be eliminated or compensated for, the project sponsor should be required to modify the project.
16. The judgment made with respect to the impact statement should be communicated to the project sponsor, to public agencies which were consulted, and to the individuals who formulated written objections. This last notification may be replaced by a more general publication of the judgment if the number of persons making comments is very large. The complete text of the judgment, including required mitigation measures, should be made available to the public in places designated for that purpose.
17. Non-compliance with the obligation to prepare an impact statement should be the object of penal sanctions, in addition to administrative sanctions.
18. In cases of non-compliance, or of substantial violations of the impact statement procedure, bodies considering appeals should annul the administrative decision on the proposed action and/or order postponement of the effective date of the decision.
19. Impact statements should consider the consequences of a proposed action on the environment outside the territorial jurisdiction of the State in which the action is proposed. Such consequences should, at a minimum, be evaluated in conformity with the principle of non-discrimination.