



When the public is not put in a position to actually participate in the environmental impact assessment for a project, a time limit for bringing proceedings against the decision granting consent for the project cannot be relied on against the public

That is so where an assessment procedure is organised essentially on an island 55 nautical miles away from the place where the project is to be carried out

A notice inviting any interested person to participate in the environmental impact assessment ('EIA') procedure in respect of a project for the creation of a tourist resort on the island of Ios (Cyclades, Greece) was published in the local newspaper of the island of Syros (Cyclades, Greece) and posted in the offices of the administrative authority of the South Aegean region on that island, which is 55 nautical miles away from the island of Ios and does not have a daily service to it.

One year later, the Minister for the Environment and Energy and the Minister for Tourism adopted the decision approving the environmental conditions ('the DAEC'), by which the project for the creation of the resort on the island of Ios was approved. That decision was published on the government portal Diavgeia and on the Ministry of the Environment's website.

Several owners of property on the island of Ios and three environmental protection associations brought legal proceedings against the DAEC more than 18 months after it was adopted. They maintain that they did not become aware of the DAEC until works to develop the site began.

According to the Greek law on EIA, until an electronic environmental register is introduced, public consultation is initiated by posting in the headquarters of the competent region and publishing in the local press information relating to the project and by inviting all interested persons to examine and comment on the EIA.

Greek legislation prescribes a period of 60 days for bringing proceedings, which starts to run when the consent for the project is published on the internet.

The Symvoulío tis Epikrateias (Council of State, Greece), before which the proceedings were brought, referred to the Court of Justice for a preliminary ruling two questions concerning the interpretation of the directive on the assessment of the effects of certain public and private projects on the environment ('the EIA Directive').¹

More specifically, the referring court seeks to ascertain whether the EIA Directive precludes national provisions under which the process preceding the approval of the environmental conditions is carried out at regional level, and not at the level of the municipality concerned, and national legislation under which publication of the approval of a project on the internet sets running the period for bringing proceedings.

In today's judgment, the Court states, first of all, that the EIA Directive leaves to the Member States the task of determining the detailed arrangements for informing the public and for its participation in decision-making in environmental matters, provided, however, that those arrangements are not

¹ Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (OJ 2012 L 26, p. 1).

less favourable than those governing similar domestic situations (principle of equivalence) and that they do not render impossible in practice or excessively difficult the exercise of rights conferred by the EU legal order (principle of effectiveness).

As regards the principle of effectiveness, the Court points out that the competent authorities must ensure that the information channels used are appropriate for reaching the citizens concerned, in order to give them adequate opportunity to ascertain the activities proposed, the decision-making process and their opportunities to participate early in the procedure.

The Court takes the view that **the posting of a notice in the regional administrative headquarters located on the island of Syros, although accompanied by publication in a Syros local newspaper, does not appear to contribute sufficiently to informing the public concerned.**

The Court observes, next, that the conditions for access to the participation procedure file must enable the public concerned to exercise its rights effectively, which entails easy accessibility to the file. It states therefore that **it is for the referring court to determine whether those requirements were complied with, taking account, in particular, of the effort required of the public concerned for crossing between the islands of Ios and Syros, and of the possibilities that were open to the competent authorities for enabling, with proportionate effort, the file to be made available on the island of Ios.**

Finally, the Court holds that **national legislation which results in a period for bringing proceedings that starts to run from the announcement of consent for a project on the internet being relied on against members of the public concerned where they did not have the opportunity to find out previously about the consent procedure is contrary to the EIA Directive.**

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

Press contact: Jacques René Zammit ☎ (+352) 4303 3355