

constructions - legal changes published in December 2018

Law no. 292 of 3 December 2018 on the assessment of the impact of certain public and private projects on the environment was published in the Official Gazette of Romania, Part I, no. 1043 of 10 December 2018 and enters into force on January 9, 2019.

This regulation transposes the provisions of Directive 2011/92 / EU of the European Parliament and Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment.

Projects subject to the provisions of this law are expressly listed in its annexes, such as power plants, utility lines, access ways, ports, warehouses.

According to the provisions of the normative act, the stages of the environmental impact assessment process of a particular project are the following: (i) preparation of the environmental impact report by the project beneficiary, (ii) conducting consultations, (iii) examination by the competent authority of the information presented in the Environmental Impact Report and any additional information, (iv) issuance of a supported conclusion by the competent authority on the significant environmental impact of the project. The decision of the competent authority or authorities authorizing the project beneficiary to carry it out shall be made by issuing, as appropriate, the following approvals: building permit, land use agreement for intensive agricultural use, agreement of the specialized territorial structure manager of the central public authority responsible for forestry, the document issued by the competent authority in the field of forestry according to the provisions of art. 40 of the Law no. 46/2008 - Forest Code.

An element attesting the harmonization of internal legislation with the European one is the inclusion of the cross-border procedure, which includes applicable rules if a project to be carried out in Romania can have a significant effect on the environment of another Member State of the European Union.

The new provisions do not apply to projects or parts thereof which have as their sole objective national defense and security or emergency response if the central public authorities for defense and national security and emergencies, together with the central public authority for environmental protection, establish, on a case-by-case basis, that carrying out the environmental impact assessment would have a negative effect on these objectives.

At the same time, the act expressly repeals the provisions of (i) Art. 8, par. 3 of Law 50/1991, whereby the opinion of the competent authority for environmental protection or its administrative act was not necessary in the case of the issuance of a permit for the dismantling of works or constructions, and (ii) Article 2 point 13 let. c) of Government Emergency Ordinance no. 195/2005, which excluded the Natura 2000 permit from the classification and definition of environmental permits issued by competent authorities for environmental protection.