



ECOWAS
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ECOWAS Directive on
Gender Assessment
In Energy Projects

2018

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COMMUNAUTÉ ÉCONOMIQUE DES
ÉTATS DE L'AFRIQUE DE L'OUEST

ECONOMIC COMMUNITY
OF WEST AFRICAN STATES

COMMUNIDADE ECONOMICA DOS
ESTADOS DA AFRICA DO OEST

EIGHTY FIRST ORDINARY SESSION OF THE COUNCIL OF MINISTERS

Abuja, 15 December 2018

DIRECTIVE C/DIR. 1 /12/18 RELATING TO THE ECOWAS DIRECTIVE ON GENDER ASSESSMENT IN ENERGY PROJECTS

THE COUNCIL OF MINISTERS.

MINDFUL of Articles 10, 11 and 12 of the Revised ECOWAS Treaty, establishing the Council of Ministers and defining its composition and its functions;

MINDFUL of the provisions of Protocol A/P.1/7/91 on the Community Court of Justice, as amended by Supplementary Protocol A/SP.1/01/05, relating to the jurisdiction of the Community Court of Justice and access to the Community Court of Justice;

MINDFUL of Regulation C/REG.23/11/08 establishing the ECOWAS Centre for Renewable Energy and Energy Efficiency (ECREEE);

MINDFUL of Decision A/DEC.5/12/99 relating to the establishment of the West African Power Pool (WAPP);

MINDFUL of Supplementary Act A/SA.2/1/08 establishing the ECOWAS Regional Electricity Regulation Authority (ERERA);

MINDFUL of Regulation C/REG.5/08/11 establishing the ECOWAS Infrastructure Projects Preparation and Development Unit (PPDU);

MINDFUL of Article 28 of the Revised ECOWAS Treaty, which prescribes that the Member States shall co-ordinate and harmonize their policies and programmes in the field of energy;

MINDFUL of Article 63 of the Revised ECOWAS Treaty, which prescribes that the Member States will formulate, harmonize, co-ordinate and establish appropriate policies and mechanisms for the enhancement of the economic, social and cultural conditions of women;

MINDFUL of the prohibition of every form of discrimination against women and men and the obligation to protect the rights of women and men, as set forth in the International Covenant on Civil and Political Rights of 1966, the Convention of 1979 and Optional Protocol of 1999 on the Elimination of All Forms of Discrimination against Women, the

African Charter on Human and Peoples' Rights of 1981 and the Protocol to the African Charter on the Rights of Women in Africa of 2003;

MINDFUL of the United Nations Declaration of Human Rights of 1948, the United Nations Nairobi Forward Looking Strategies of 1985, the Vienna Declaration and Programme of Action of 1993 and the Beijing Declaration and Platform for Action of 1995, and the African Union Agenda 2063 Framework of 2015, which all promote gender equality and women's rights, including with respect to sustainable development;

MINDFUL of Article 45 of the Supplementary Act A/SA.3. /05/15 relating to the Equality of Rights between Women and Men for Sustainable Development in the ECOWAS Region, which prescribes that Member States shall undertake to promote access to energy services for all in an equitable manner and without gender discriminations;

MINDFUL of Article 19 of the ECOWAS Energy Protocol, A/P.4/1/03, which prescribes that Member States shall strive to minimize harmful Environmental Impacts, including impacts on cultural heritage and socio-economic conditions, throughout the energy cycle;

CONSCIOUS that the development of the energy sector is essential for the socio-economic development of the Member States and that benefits from these activities should be equitably shared among men and women of the present and future generations;

RECOGNIZING that the development of the energy sector entails the use and alteration of natural endowments within the Member States, endowments which men and women of the present and future generations are equally entitled to enjoy, depend on, and profit from;

AWARE that energy projects have both intended and unintended consequences, including for the human populations in project-affected areas, their livelihoods, their social institutions and practices, and their relationship to the natural and built environments, and that the manner and degree to which energy project affects individuals, communities and societies are mediated through gender, among other variables;

CONSCIOUS of the need to improve gender mainstreaming in energy access and gender equality in the energy sector, as stated in the ECOWAS Policy on Gender Mainstreaming in Energy Access, to not only prevent negative, discriminatory effects but also harness the positive socioeconomic impacts of gender-informed design and decision making in energy development;

ACKNOWLEDGING it is the responsibility of all stakeholders in the energy sector, but in particular project developers and regulatory governmental authorities, including ECOWAS institutions, to be aware of, and take steps to monitor and mitigate, potentially harmful differential impacts of energy projects on men and women and to realize the positive impacts of gender-informed design and decision making;

RECOGNIZING the ongoing efforts of Member States to ensure environmental and social impact assessments are conducted for energy projects;

CONVINCED of the need to develop widely accepted criteria by which developers, governments, communities, investors and other stakeholders can assess the impact of infrastructure projects in the energy sector on women and men and use such criteria to develop appropriate gender assessment and mitigation plans, procedures and best practices, taking into account other relevant international and regional initiatives;

CONFIDENT that mainstreaming gender in energy projects strengthens Member States' ability to ensure that projects contribute to promoting inclusive and sustainable development and that awareness and attention to the differential impacts of energy projects on men and women will lead to accelerated socio-economic development in the Member States;

DESIRING to take an internationally-leading role in creating a common legal framework for policies and regulations for gender assessment in the energy sector;

ON THE PROPOSAL of the 12TH Meeting of the ECOWAS Ministers of Energy held on 29th June 2018 in Cotonou, Benin.

PRESCRIBES AS FOLLOWS:

Article 1

The ECOWAS Directive on Gender Assessment on Energy Projects attached as an annex to this Directive is hereby adopted.

Article

This Directive C/Dir.1/12 /18 shall enter into force from the date of signature by the Chairperson of the Council of Ministers and shall be published in the Official Journal within thirty (30) days of its signing. It shall be published in the National Gazette of Members States within the same timeframe

DONE AT ABUJA THIS 15 DAY OF DECEMBER 2018



H. E. SHIRLEY AYORKOR BOTCHWEY
CHAIRMAN FOR COUNCIL

CHAPTER I DEFINITIONS AND OBJECTIVES

Article 1 Definitions

1. For the purposes of this Directive, the following definitions shall apply:
 - (a) “Additional Criteria” means any Gender-related criteria, additional to the Minimum Criteria, that each Member State may establish as relevant in the performance of a Gender Assessment;
 - (b) “Competent Authority” means the authority or those authorities which the Member States designate pursuant to Article 14(1) of this Directive;
 - (c) “Developer” means the applicant for authorization for a Project or the public authority which initiates a Project;
 - (d) “Development Consent” means the decision of the Competent Authority or Authorities which entitles the Developer to start and implement the Project, which decision may take the form of a separate gender license or another required development license, permit or consent;
 - (e) “Energy” includes every form of energy derived from any of the following sources: solar, wind, biomass, fossil, geothermal, ocean, nuclear or hydro;
 - (f) “Energy Sector” means the totality of industries involved in the extraction, production, transformation, transportation, storage, generation, transmission and distribution of Energy, energy products and energy services;
 - (g) “feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, Gender and technological factors;
 - (h) “Gender” encompasses the social meanings ascribed on the basis of an individual’s biological sex within a given society;
 - (i) “Gender Assessment” means
 - (i) the description and evaluation, by means of the analysis of any available and relevant data that can be obtained with reasonable diligence, of the expected Gendered Impacts of a Project, considering the Relevant Criteria;
 - (ii) the carrying out of public consultations in connection with such analysis;
 - (iii) the examination by the Competent Authority of such analysis, any other relevant supplementary information and the results of the public consultations;

- (iv) the reasoned conclusion by the Competent Authority in accordance with Article 8(5) of this Directive;
- (j) “Gender Assessment Report” means a report prepared in accordance with Article 5 of this Directive;
- (k) “Gendered Impacts” means those impacts, results or outcomes which, though deriving from the same action or set of actions, have consequences, whether negative or positive, which are dissimilar across affected groups of men or women in degree and/or characteristics;
- (l) “Gender Management Plan” means a plan prepared in accordance with Article 6 of this Directive;
- (m) “Gender Performance Monitoring Report” means a report prepared in accordance with Article 7 of this Directive;
- (n) “Member State” means a Member State of the Community as defined in paragraph 2 of Article 2 of the Revised ECOWAS Treaty, and “Member States” shall be construed accordingly;
- (o) “men” and “women” when referenced shall include men and women of all ages, including boys and girls, respectively.
- (p) “Minimum Criteria” means the Gender-related criteria listed in Article 4(2) of this Directive;
- (q) “Project” means the execution of construction works or of other installations or schemes, or other interventions in the natural surroundings and landscape, including those involving the extraction, production, transformation, transportation, storage, generation, transmission and distribution of Energy, energy products and energy services, and related projects that have a significant Energy component;
- (r) “Relevant Criteria” means the Minimum Criteria and the Additional Criteria; and
- (s) “vulnerable groups” are groups of people who may be especially vulnerable to adverse Gendered Impacts and inequality in the distribution of Project benefits, including due to their social or economic status, racial or ethnic origin, religion or belief, disability, age, etc.

Article 2 Objectives

1. The objectives of this Directive are to:
 - (a) ensure that the specific interests of women and men, as stakeholders, are taken into account in the development of Projects;
 - (b) ensure that any potential adverse and discriminatory impacts on women or men deriving from Projects are recognized and avoided or mitigated to the extent feasible;

- (c) improve transparency in planning and implementation processes to promote and increase the participation and capacity of women and men, including but not limited to customers, employees, managers, investors, officials and other stakeholders; and
- (d) encourage the development of harmonized policy, legal regulatory frameworks and operational strategies in each Member State and for ECOWAS institutions that are consistent with the principles of, and achieve the objectives of, this Directive, whilst imposing the least financial and administrative barriers possible on Developers, Competent Authorities and other stakeholders.

CHAPTER II

GENDER ASSESSMENT AND MANAGEMENT PLAN

Article 3 Requirement for Gender Assessment and Gender Management Plan

1. Member States shall adopt appropriate legislation to ensure that, before Development Consent is given, Developers conduct a Gender Assessment and prepare a Gender Management Plan for Projects likely to have significant Gendered Impacts. In order to identify the Projects for which it shall be necessary to conduct a Gender Assessment, the Member States shall establish appropriate criteria and thresholds, which should include the following factors:
 - (a) the number of men and women, especially those in vulnerable groups, affected by the Project, in particular the number of men and women:
 - (i) whose land is taken or repurposed;
 - (ii) whose livelihood is altered;
 - (iii) who will be employed by the Project; or
 - (iv) who stand to gain access to energy products and services;
 - (b) the cost or size of the Project; and
 - (c) other Project characteristics suggesting a high potential for significant Gendered Impacts.
2. The Competent Authority shall require a Gender Assessment and Gender Management Plan for any Project not meeting the established criteria and thresholds if the Competent Authority believes nevertheless that such Project may have significant Gendered Impacts.

Article 4 Gender Assessment

1. The Gender Assessment shall identify, describe and assess in an appropriate manner, in light of each individual Project, the expected direct and indirect significant Gendered Impacts, considering the Relevant Criteria. The Relevant Criteria shall consist of the Minimum Criteria and any Additional Criteria established by the Member State.
2. The Minimum Criteria for a comprehensive Gender Assessment include:
 - (a) differences between men and women in terms of displacement, resettlement, loss of livelihood, and physical security and health;
 - (b) basic and strategic Gender needs of the beneficiaries of the Project, taking into consideration factors including health, education, property ownership, effect on livelihood and protection from human trafficking, violence and sexual exploitation;

- (c) social representation and level of empowerment of men and women within the community and the participation and empowerment of men and women in the Project activities, consultations and decision-making processes;
- (d) division of community and Project labour among men and women; and
- (e) differences between men and women in access to and control over community and Project resources and benefits.

Article 5 Minimum Required Contents of Gender Assessment Reports

1. Member States shall adopt appropriate legislation establishing procedural rules according to which Gender Assessments shall be conducted and the resulting Gender Assessment Reports shall be prepared and according to which the Competent Authority shall review and consider such reports.
2. The information provided by the Developer in the Gender Assessment Report shall include as a minimum:
 - (a) a description of the Project, including all relevant information on the site, design and size of the Project;
 - (b) delimitation of the Project Affected Area as determined by its physical, social, economic, and environmental footprint;
 - (c) Gender-sensitive stakeholder analysis, including identification of vulnerable groups and persons;
 - (d) a cataloging of Project activities and outcomes and their potential Gendered Impacts and a description of these impacts;
 - (e) the data required and methods used to identify and assess the potential for Project benefits and significant adverse Gendered Impacts;
 - (f) a description of the measures envisaged in order to avoid, reduce and remedy, to the extent feasible, significant adverse Gendered Impacts, as well as harness the positive effects of gender-conscious decision-making and Project design, including but not limited to increasing women's access to employment opportunities, strengthening sexual harassment policies, providing a safe work environment, creating career pathways to management, utilizing gender responsive budgeting, maximizing women's and children's access to energy and benefits derived from energy provision and expanding training opportunities;
 - (g) a description of the expected effects on the analyses of paragraphs (d) and (f) above deriving from the vulnerability of the Project to applicable risks of major accidents and/or disasters;
 - (h) an outline of the main alternatives studied by the Developer for the Project, an indication of the criteria applied in the analysis and selection and the main reasons for their choice, taking into account the Gendered Impacts;

- (i) a description of any consultative process(es) with affected stakeholders and a description of the grievance mechanism(s) available for communities and Project workers in connection with the Project development and/or Gender Assessment, including means of public notification of such process, minutes from consultations conducted with a representative sample of men and women stakeholders, a register of participants (persons and organizations) and measures taken to ensure equal participation and consideration of priorities and concerns of men and women;
- (j) a certification that all information contained in the report is complete and accurate to the best of the Developer's knowledge; and
- (k) a non-technical summary of the information referred to in points (a) to (i).

Article 6 Minimum Required Contents of Gender Management Plans

1. Member States shall establish procedural rules according to which Developers shall prepare Gender Management Plans and according to which the Competent Authority shall review and consider such plans.
2. The Gender Management Plans shall describe the Developer's plans to avoid, reduce and remedy, to the extent feasible, any significant adverse Gendered Impacts of the Project, as described in the Gender Assessment Report, and the plans to maximize opportunities and benefits for men and women.
3. The Gender Management Plan should be agreed through consultation with governmental representatives and men and women of the affected and benefitted communities and interested groups and should include, at a minimum:
 - (a) selection of indicators, and methodologies for their calculation, and setting of time-bound targets against which Project benefits and impacts will be assessed;
 - (b) description of mitigation and proactive measures to be taken, including rationale for the measures and expected results;
 - (c) the proposed timeline and management practices for conducting public consultations, facilitating grievance mechanisms, conducting mitigation actions, achieving results, and reporting on indicators; and
 - (d) description of any Gendered Impacts that in the Developer's opinion cannot feasibly be mitigated or remedied and the rationale for this determination.

Article 7 Minimum Required Contents of Gender Performance Monitoring Reports

1. Member States shall establish procedural rules according to which Developers shall prepare periodic Gender Performance Monitoring Reports as a condition for continued Development Consent.
2. The Member States shall establish guidelines or, alternately, provide for a case-by-case determination by the Competent Authority of the frequency of the Gender

Performance Monitoring Reports, in either case based on relevant factors such as the length of a Project's expected resettlement (if any), construction and operational phases, cost and the potential for a change in circumstances.

3. Each Gender Performance Monitoring Report shall include, at a minimum, the following elements:
 - (a) all material changes in the status of all realized Gendered Impacts associated with the Project, regardless of whether they were previously disclosed or identified, which have occurred since the approval of the Gender Assessment Report, or the date of submission of the previous Gender Performance Monitoring Report;
 - (b) all changes to the risk analysis of potential Gendered Impacts associated with the Project;
 - (c) an update of all consultations conducted and complaints received and how they were addressed;
 - (d) an update of all mitigation and proactive activities, their associated results, indicators, and timelines, as presented in the Gender Management Plan;
 - (e) the degree of variance between planning and forecasts contained in the Gender Management Plan and actual results and achievements;
 - (f) the status of any Gendered Impact deemed infeasible to mitigate; and
 - (g) a certification that all information contained in the Gender Performance Monitoring Report is complete and accurate to the best of the Developer's knowledge.
4. Member States shall adopt legislation providing that if at any stage after the Gender Assessment Report or a Gender Performance Monitoring Report has been submitted to the Competent Authority there is a material adverse change in a Gendered Impact of the Project or in any of the information contained therein due to changes in the Project or to unforeseeable circumstances, the Developer shall have a duty to submit an amended report to the Competent Authority.

CHAPTER III GENDER ASSESSMENT PROCEDURES

Article 8 Review and Approval of Reports and Plans by the Competent Authority

1. In order to ensure the completeness and quality of the reports and plans required under Chapter II:
 - (a) the Developer shall ensure that the reports and plans are prepared by competent experts;
 - (b) the Competent Authority shall ensure that it has, or has access as necessary to, sufficient expertise to examine and evaluate the reports and plans; and
 - (c) where necessary, the Competent Authority shall seek from the Developer supplementary information which is directly relevant to reaching the reasoned conclusion on the significant Gendered Impacts of the Project.
2. Member States shall take the necessary measures to ensure that, if the Developer so requests before submitting an application for Development Consent, the Competent Authority shall give an opinion on the information to be supplied by the Developer in accordance with Chapter II. The fact that the Competent Authority has given an opinion under this paragraph shall not preclude it from subsequently requiring the Developer to submit further information.
3. The Competent Authority shall have the power to obligate the Developers to take actions designed to the extent feasible to achieve positive Gendered Impacts or to avoid or mitigate any significant adverse Gendered Impacts outlined in the Gender Assessment Report or that the Competent Authority reasonably believes will result from the Project.
4. Competent Authorities shall have discretion to provide Development Consent where Developer suggests no mitigation measures are feasible if the Competent Authority also reaches, after reasoned examination of the circumstances and consultation with the public, the conclusion that mitigation action is not feasible.
5. A decision to grant Development Consent shall incorporate at least the following information:
 - (a) a reasoned conclusion by the Competent Authority on the significant Gendered Impacts of the Project, taking into account the results of the Gender Assessment Report and, where appropriate, its own supplementary examination and due diligence; and
 - (b) any conditions attached to the decision, a description of any features of the Project and/or measures envisaged in the Gender Management Plan to, to the extent feasible, achieve positive Gendered Impacts or avoid, reduce and remedy, significant adverse Gendered Impacts, as well as the required monitoring measures, including the requirement to file Gender Performance Monitoring Reports.

A decision to refuse Development Consent shall state the reasons for the refusal.

6. Member States shall direct their Competent Authorities to put in place reasonable time frames for review, public consultation and approval stages, which time frames may vary depending on the type or size of the Project.

Article 9 Public Consultation

1. The public shall be informed whether by public notices or by other appropriate means such as electronic media, mobile messaging, radio and community boards where available, of the following matters early in the gender assessment decision-making procedures referred to in Article 8 and, at the least, as soon as information can reasonably be provided:
 - (a) the request for Development Consent to the Project;
 - (b) the fact that the Project is subject to a Gender Assessment procedure;
 - (c) details of the Competent Authority responsible for reviewing and approving the Gender Assessment Report and Gender Management Plan;
 - (d) an indication of the times and places at which the public concerned will be consulted as to the scope and priorities of the Gender Assessment;
 - (e) an indication of the times and places at which, and the means by which, the Gender Assessment Report and Gender Management Plan will be made available; and
 - (f) details of the grievance mechanism(s) available to affected members of the public through which complaints may be made as to the process and substance of the Gender Assessment.
2. The public concerned shall be given early and effective opportunities to participate in the gender assessment decision-making procedures referred to in Article 8 and shall, for that purpose, be entitled to express comments and opinions before the Competent Authority has made any decision on the request for Development Consent.
3. The Competent Authorities shall consider the results of the public consultations in granting or denying Development Consent.

Article 10 Integration with other Procedures

1. The Member States may integrate the requirements and procedures of this Directive into existing requirements and procedures for Development Consent to Projects, including procedures and reports for other types of assessment, such as environmental and social impact assessment.
2. If the Member States so provide, the content of the reports and plans required in this Directive may be integrated by Developers into other reports and plans required for Development Consent, subject to such reports and plans meeting the requirements of this Directive regarding form, content and transparency.

CHAPTER IV ADDITIONAL OBLIGATIONS

Article 11 Duties of Developers

1. Developers shall carry out their activities in accordance with national laws, regulations, administrative practices, and policies relating to mainstreaming gender access of Member States in which they operate and with due regard to relevant international agreements, principles, objectives and standards, including those referenced in the Recitals to this Directive, as applicable, and shall generally conduct their activities in a manner contributing to the wider goal of sustainable development.
2. Notwithstanding the obligations of the Member States contained within this Directive, including obligations to enact national provisions and procedures, Developers of Projects in any Member State are expected to conduct Gender Assessments and complete and follow Gender Management Plans consistent with the requirements of Chapter II of this Directive.

Article 12 Duties of the ECOWAS institutions

1. All of the ECOWAS institutions, including but not limited to, ECREEE, the WAPP, the PPDU and the ERERA, shall ensure a Gender Assessment, Gender Management Plan and Gender Performance Monitoring Reports are produced and approved as required and in a manner consistent with the requirements of Chapter II and Chapter III in connection with any Project that such institutions sponsor or to which they participate in or provide any material type of support.

Article 13 Transparency

1. Member States shall officially publish any national laws, rules or regulations created pursuant to or in the furtherance of this Directive, and shall require their Competent Authorities to publicly announce the fees, forms, procedures and timelines that the Competent Authority establishes for Gender Assessments pursuant to those laws and regulations.
2. Reports, plans, information and decisions furnished under Chapter II and Chapter III of this Directive should be considered public and shared with the public.
3. No data shall be considered confidential if it relates to unmitigated adverse Gendered Impacts.
4. Notwithstanding the provisions set forth in the paragraphs above, the provisions of this Directive shall not affect the obligation on the Competent Authorities to respect the limitations imposed by national laws, regulations and administrative provisions and accepted legal practices with regard to commercial and industrial confidentiality, including intellectual property, and the safeguarding of the public interest.

CHAPTER V COMPETENT AUTHORITIES; ENFORCEMENT

Article 14 Competent Authorities

1. Within the framework of the implementation of this Directive, Member States shall set up a dedicated governmental body or agency or shall empower an existing body or agency, or multiple such bodies or agencies, which will be the Competent Authority or Authorities to monitor the application of all the provisions of this Directive.
2. Member States shall ensure that the Competent Authorities do not find themselves in a situation giving rise to a conflict of interest. Where the Competent Authority is also the Developer, Member States shall implement, within their organization of administrative competences, an appropriate separation between conflicting functions when performing the duties arising from this Directive and shall also consider the use of an independent, third-party reviewer such as the ECOWAS Commission, if available.
3. Member States shall enact the laws necessary in order to empower the Competent Authorities, upon any of the stakeholders' initiative, or on their own initiative, to begin investigations on the activity of the Developers which are involved in the planning or implementation of a Project, to require them to complete Gender Assessments and prepare the required reports and plans under the circumstances indicated by the Member States' laws adopted pursuant to Chapter II, and to require a Developer to take actions designed to avoid, reduce or remedy adverse Gendered Impacts arising from a Project.

Article 15 Co-operation of Competent Authorities; Cross-border Projects

1. Member States shall adopt legislation providing that, where there is an obligation to prepare reports and plans under Chapter II, the Developer submit such reports and plans to the Competent Authority established within each of the Member States in which the Project will be realized.
2. Where a Project is located in, or has potential Gendered Impacts in, multiple Member States, the Competent Authorities in the concerned Member States shall consult and agree the procedures and timeline for review, public consultation and deciding on Development Consent for the Project consistent with the provisions of this Directive.

Article 16 Fees

1. Member States may authorize their Competent Authorities to establish and collect fees from Developers pursuant to a transparent, publicly-available fee structure that is reflective of the time and materials needed to review and consider the reports and plans required under Chapter II, monitor compliance, issue licenses and otherwise comply with the measures outlined in this Directive.

Article 17 Penalties; Enforcement

1. The Competent Authority shall monitor the realization and implementation phases of the Project to ensure that the Gender Assessment Report and the Gender Progress Monitoring Reports continue to fairly describe the Gendered Impacts of the Project, and that the mitigating actions described in the Gender Management Plan are actually taken.

2. Member States shall lay down rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive. The penalties shall be effective, proportionate and dissuasive.
3. Competent Authorities shall have standing, in case of failure by the Developers to fulfil their obligations under this Directive, to sue the Developers before the national courts or tribunal in order to obtain a court judgment, order or decree or its equivalent, ordering the Developer to comply with the obligations under this Directive.

Article 18 Judicial Review and Appeals

1. Member States shall ensure that, in accordance with their respective national legal system, Developers have access to a review procedure before a court of law or another independent and impartial body established by law to challenge the legality of decisions, acts or omissions made pursuant to this Directive and the national provisions adopted pursuant to this Directive.
2. Member States shall ensure that, in accordance with their respective national legal systems, members of the public concerned which:
 - (a) have a sufficient interest; or
 - (b) maintain the impairment of a right, where administrative procedural law of a Member State requires this as a precondition;

have access to a review procedure before a court of law or another independent and impartial body established by law to challenge the legality of decisions, acts or omissions made pursuant to this Directive and the national provisions adopted pursuant to this Directive.
3. For purposes of paragraph 2, what constitutes a sufficient interest and impairment of a right shall be determined by the Member States, consistently with the objective of giving the public concerned wide access to justice. To that end, the interest of any non-governmental organization promoting gender equality and meeting any requirements under national law shall be deemed to have a sufficient interest for the purpose of point (a) of paragraph 2 of this Article.
4. The provisions of this Article shall not exclude the possibility of a preliminary review procedure before an administrative authority and shall not affect the requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures, where such a requirement exists under national law. Any such procedure shall be fair, equitable, timely and not prohibitively expensive.
5. In order to further the effectiveness of the provisions of this Article, Member States shall ensure that practical information is made available to the public on access to administrative and judicial review procedures.

CHAPTER VI MEMBER STATE IMPLEMENTATION

Article 19 Implementing Provisions

1. The Member States and the ECOWAS Commission shall adopt all necessary measures in order to comply with this Directive within two (2) years of its entry into force.
2. Member States shall communicate to ECREEE the texts of the provisions of national law, rules or regulations which they adopt in order to comply with this Directive.
3. Where the Member States adopt this Directive, the texts shall contain a reference to this Directive, or shall have such a reference attached to them when they are officially published.
4. In order to implement this Directive, the Member States shall amend or abrogate, and the Member States national courts shall disapply or disregard, any national laws, rules or regulations to the extent incompatible with the full implementation of this Directive.
5. Member States shall provide annual budget lines of expenditure as may be required for the implementation of this Directive. Member States shall develop national action plans for the implementation of the obligations under this Directive.

Article 20 Further Opportunities for Gender Assessment in Infrastructure Development

1. In recognition that adverse and differential Gendered Impacts are not limited to Energy Projects and consequently the benefits of conducting a Gender Assessment extend beyond Energy Projects, Member States are encouraged to extend the requirements under Chapter II to conduct Gender Assessments and prepare the related reports and plans to non-energy projects, such as commercial, industrial, telecom, transportation, water, waste-related and other social and economic infrastructure development projects.

Article 21 Member States Reporting

1. No later than March 31st of the following year, or by such other time as determined by ECREEE, Member States shall submit an annual report to ECREEE regarding the implementation of this Directive, best practices, achievements and difficulties encountered in the process of implementing this Directive. The annual reports should be released to the public by ECREEE as soon as they are received. ECREEE will publish a model form of the annual report for use by each Member State.
2. Member States undertake to promote inter-State cooperation in the implementation of this Directive.

Article 22 ECOWAS Commission

1. The ECOWAS Commission shall issue model regulations and other document templates in order to aid Member States' implementation of this Directive. The

ECOWAS Commission shall make such materials publicly available alongside this Directive.

2. ECREEE, on behalf of the ECOWAS Commission, shall be responsible for supporting and supervising the application of the provisions of this Directive. To this end, ECREEE shall:
 - (a) take all possible measures to mobilize resources for the monitoring and implementation of this Directive;
 - (b) assist Member States, to the extent possible, with financial and technical support for the realization of their activities; and
 - (c) present an annual report to the Council of Ministers on the status of the implementation of this Directive.

CHAPTER VII GENERAL PROVISIONS

Article 23 Settlement of Disputes

1. The Member States shall endeavour to settle amicably any dispute concerning the application, interpretation or implementation of the provisions of this Directive.
2. Disputes involving the interpretation or application of this Directive not settled amicably may be brought before the ECOWAS Community Court of Justice, in accordance with Article 3 of Supplementary Protocol A/SP.1/01/05 on the Community Court of Justice.
3. Notwithstanding Article 18 of this Directive, the citizens of any Member State have the right where so permitted under Article 10 of Protocol A/P.1/7/91 on the Community Court of Justice, as substituted by Article 4 of Supplementary Protocol A/SP.1/01/05, to resort to the Community Court of Justice when they believe that they have suffered any harm as a result of the violation of the rights set forth herein.

Article 24 Publication

1. This Directive shall be published by the ECOWAS Commission in the Official Journal of the Community within thirty (30) days of its signature by the Chairman of the Council of Ministers.
2. It shall also be published by each Member State in its National Gazette within thirty (30) days of notification by the Commission.

Article 25 Entry into Force

1. This Directive shall enter into force upon its publication in the Official Journal of the Community.

