

Serbia and Montenegro **EIA Overview**

KOSOVO

(territory under UN interim administration)

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THE REGIONAL ENVIRONMENTAL CENTER
for Central and Eastern Europe



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General Information

Important factors to consider when introducing a national EIA system

Environmental impact assessment (EIA) in Kosovo¹ is currently regulated through the application of laws detailed in Section 1.2, which immediately follows. However, there is no overall system currently in place for EIA: only the mining and minerals industries undertake such procedures. Programme funding has been secured for the comprehensive development of EIA regulations and procedures by the European Agency for Reconstruction in year 2003-04.

Legal acts, regulations and other provisions concerning EIA

The current applicable law authorising the Department of Environment (DOE) for the EIA process is the Law on Investment Projects (*Official Gazette of Kosovo* No. 5/86). Article 18, par. 14 of this law states that the “investor is bound to undertake an analysis of impact on the environment.” The article includes a number of measures and means for protection of the environment.

In addition, UNIMK Regulation 2000/32 states that the DOE shall be responsible for the overall management of matters relating to environmental protection in Kosovo.

Specific guidelines have been drawn up for the development of quarries in Kosovo in order to minimise environmental impacts without compromising resources for future generations. The procedures are described below.

Annex A contains an extract from the Environmental Protection Law that was adopted by the Assembly of Kosovo and sent to the Special Representative of Secretary General (SRSG) on February 5, 2003. On March 7, 2003 the SRSG returned the law to the Assembly without signature and put forth a list of eight conditions to be fulfilled by amending the draft. Thus the law will not enter into force until approved and promulgated by the SRSG. The Environmental Protection Law was approved on April 15 2003.

New and planned environmental requirements relevant to EIA

The new environmental law introduces the basic Principle of Gradual Harmonisation with European Union Standards under Section 1. A fundamental purpose of the present law is to establish a basic legal framework that will promote an increasingly healthy environment for the people of Kosovo through the gradual introduction of EU-level environmental standards. It is hoped that a capacity-building programme with the European Agency for Reconstruction will assess this directive and reach a decision on how it can be incorporated into a Kosovo perspective.

Major players in the EIA process

Local environmental protection lies within the realm of municipal responsibilities. It is recommended that municipalities should request advice from the Institute for Nature and Environmental Protection, which is setting up a special sector to deal specifically with EIA. This sector will offer recommendations not only to municipalities, but also to the DOE.

According to the quarry-permit issuing procedure, the DOE will grant its approval as a member of the Mining Advisory Board. This approval will be given on the basis of recommendations of the Institute of Natural and Environmental Protection (INEP), which will review the applications.

Responsibility for monitoring and controlling implementation lies with municipal inspectors. However, if the quarry exceeds certain size limitations (still to be defined), or more than one municipality is involved, the DOE will (in close collaboration with the Department of Local Administration) guide the decision-making process from the very beginning.

Capacity-development activities

There are, or have been, three programmes for EIA-capacity training, which are as follows:

- The Regional Environmental Reconstruction Programme for South Eastern Europe project on EIA training (held in March 2003);

- a one-month training course attended, with international assistance, by the head of the Environmental Protection Division (held in Sweden during May 2003); and
- international assistance for ministry capacity building, currently being procured by the European Agency for Reconstruction. (This is a core component for the Strengthening of environmental impact assessment Division.)

This last project is aimed at providing a clear framework under which developers and regulators can carry out and evaluate EIAs. It will ensure that the requirements and scope of EIAs are clearly understood by all interested parties, and will set down regulatory requirements for EIAs. In particular, the project will focus upon the following:

- reviewing EIA legislation and directives across the European Commission and proposing EIA regulations appropriate for adoption in Kosovo;
- preparing a set of clear and detailed guidelines for EIA that should be followed by developers and regulators, and which should include a series of model EIA reports for selected industry and commercial sectors from which to benchmark EIAs for future projects;

- identifying which sets of national environmental data are currently inadequate in terms of facilitating effective EIAs;
- collecting background environmental data to provide benchmarks for impact assessment;
- identifying and assessing options for effective regulation of EIAs, and advising the Ministry of Environment and Spatial Planning (MESP) on the most appropriate and efficient approaches to regulation;
- establishing and delivering an EIA training programme for regulators (and, in the countryside, developers); and
- disseminating requirement information to municipal authorities and stakeholders of EIAs.

Endnote

- 1 Kosovo (territory under UN interim administration)

Environmental Impact Assessment

Screening

The Ministry of Environment Protection and Spatial Planning (hereafter referred to as the Ministry) determines whether or no a proposed project requires an EIA.

This Ministry, by legal act, shall prescribe: which activities require an environmental permit; the application form for acquiring an environmental permit; the content of the permit; reasons (if applicable) for revocation of the permit; and, the registry of approved permits. The Ministry shall also prescribe: a list of activities requiring environmental authorisation; the application process; and, the content of any authorisation

After receiving an EIA report, the minister of environment protection and spatial planning shall immediately seek the advice of the Kosovo Environment Protection Agency (KEPA) with respect to said EIA report and, within a certain time, either issue environmental consent, or deny environmental consent by providing the concerned applicant with a detailed written statement of the reasons for said denial. Before an environmental consent is issued, the minister, through KEPA, shall offer the public an opportunity to review the EIA report and the draft decision. During this review period, the EIA report and the draft decision shall be available for inspection by the public, and a public hearing shall be held. The person(s) intending to undertake a project shall be present at the public hearing and have an opportunity to explain the project to the public. KEPA must consider public concerns and suggestions, but is not obliged to act on them. The date, time and place of the review period and the hearing shall be published in the public media and announced in the usual local manner.

Defining the contents of an EIA report

A person, undertaking or public authority that is planning the construction of an industrial or processing facility, or other major work or project, shall, if such facility, project or work has a significant potential for causing environmental damage, first be required to conduct an EIA and then to file an EIA report with the Ministry, summarising the findings of the EIA.

Currently there is a legal list with general requirements (in basic questionnaire form) for the contents of an EIA (see Annex B).

The government, after receiving a proposal from the minister of environment protection and spatial planning, shall establish a subsidiary normative act specifying, at an intelligible level of detail, a description of the procedures that shall be used to conduct an EIA, and a description of the types of information that shall be contained in an EIA report.

An EIA shall only be performed, and an EIA report may only be prepared and submitted, by a person or undertaking having special expertise and training in the environmental sciences, the conduct of an EIA, and the preparation of an EIA report, and holding an EIA license from the ministry that authorises such a person or undertaking to conduct EIAs and to prepare EIA reports.

When defining the contents of an EIA report, the Ministry has to be consulted. Before environmental consent is issued the Ministry shall, through KEPA, provide the public with an opportunity to review the EIA report and the draft decision. During this review period, the EIA report and draft decision shall be available for inspection by the public, and a public hearing shall be held. The person intending to undertake a project shall be present at the public hearing and have an opportunity to explain the project to the public. KEPA must consider public concerns and suggestions, but is not obliged to act on them. The date, time and place of the review period and the hearing shall be published in the public media and announced in the usual local manner.

Reviewing an EIA report

After receiving an EIA report, the Ministry shall immediately seek the advice of KEPA with respect to said EIA report and, within 60 days of the date the report was submitted, either issue environmental consent, or deny consent by providing the applicant with a detailed written statement of the reasons for denial.

EIA reports are ensured for quality and verified by the Ministry, with KEPA.

EIA post-monitoring and analysis

The Ministry may, in denying environmental consent, propose certain modifications, if possible, to the proposed construction or other activity that will allow the Ministry to issue consent at a later date.

Espoo Convention

If an intended project could directly influence the environment outside Kosovo, the Ministry shall inform the government and those countries likely to be affected by the intended project, and to provide documentation of the intended project, including the project's EIA report, in accordance with international conventions, including but not limited to those listed in Annex I.

ANNEX A:

The Environmental Protection Law of Kosovo

Assembly of Kosovo

The Environmental Protection Law

Section 4: Environmental impact assessment, Consent, Permit and Authorisation

Article 23

Environmental impact assessment

1. A person, undertaking or public authority that is planning the construction of an industrial or processing facility or a major work or project shall, if such facility, project or work has a significant potential for causing environmental damage, first be required to conduct an environmental impact assessment (EIA) and to file with the Ministry a report summarising the findings of that EIA (EIA report).
2. A person, undertaking or public authority that is planning to significantly modify the operations of an existing industrial or processing facility or major work or project shall, if such modification has a significant potential to increase or substantially alter emissions and/or discharges, first be required to conduct an EIA and to file with the Ministry an EIA Report summarising the findings of that assessment.
3. An EIA shall not be required in connection with the construction or modification of residential and non-industrial commercial buildings within the areas prescribed for such construction by the applicable spatial plan.
4. The Government, after receiving a proposal from the Minister, shall issue a subsidiary normative act establishing, in accordance with Article 23, a list specifying (i) the types of industrial and processing facilities, projects and works the construction of which requires an EIA and an EIA Report, and (ii) the types of modifications to industrial and processing facilities, projects and works the execution of which require an EIA and an EIA report.
5. The Government, after receiving a proposal from the Minister, shall establish a subsidiary normative act specifying, at an intelligible level of detail, (i) a description of the procedures that shall be used in the conduct of an EIA and (ii) a description of the types of information that shall be contained in an EIA report. This subsidiary normative act may establish different procedures and different information requirements for different types of planned activities; provided, however, that such differences shall have a sound scientific basis. Such differences may also be based on differences in the scope and the size of the planned activities.
6. An EIA shall only be performed, and an EIA report may only be prepared and submitted, by a person or undertaking (i) having special expertise and training in the environmental sciences, the conduct of an EIA, and the preparation of an EIA report, and (ii) holding a license (an EIA license) from the Ministry that authorises such a person or undertaking to conduct EIAs and to prepare EIA reports. The Government, after receiving a proposal from the Minister, shall issue a subsidiary normative act specifying reasonable, non-discriminatory, minimum requirements that a person or undertaking must meet in order to obtain an EIA license. Said subsidiary normative act shall require the Ministry to issue an EIA license to any and all persons and undertakings providing reasonable evidence of compliance with the requirements established by said subsidiary normative act. The Ministry shall not impose any numerical limit on the number of EIA licenses issued. The subsidiary normative act required by this paragraph shall also require all EIA license holders to conduct an EIA and to prepare an EIA report in a wholly independent and scientifically objective manner. The Ministry shall not issue an EIA license to any person or undertaking until the subsidiary normative act required by this paragraph has been issued and all required application forms have been prepared, adopted and made publicly available.
7. The Ministry shall maintain an up-to-date list of all holders of an EIA license. The Ministry shall immediately provide such list to any person requesting such list or the names of the holders of an EIA license. However, neither the Ministry nor any official or civil servant of any public authority may make any recommendation with respect to the services offered by any EIA license holder.

Article 21

Environmental impact assessment Procedure and Environmental Consent

1. All public officials and civil servants having the authority to issue a construction permit, and all persons and undertakings holding a license to engage in construction activities, shall be required to receive basic training in the EIA requirements established by Article 20 and the subsidiary normative acts issued pursuant to Article 20.
2. If a public official receives an application for a construction permit that involves an activity that is subject to an EIA requirement under Article 20, the public official shall notify the applicant that the permit cannot be issued until the applicant has conducted an EIA, filed the required EIA report with the Ministry, obtained an Environmental Consent from the Ministry, and provided such official with such Environmental Consent. Such official shall also notify the applicant that an EIA may only be performed, and an EIA report may only be prepared by, a holder of an EIA license issued by the Ministry.
3. After receiving an EIA report, the Ministry shall immediately seek the advice of KEPA with respect to such EIA report and, within 60 days from the date such EIA report was submitted, either (i) issue the concerned Environmental Consent or (ii) deny the Environmental Consent by providing the concerned applicant with a detailed written statement of the reasons for such denial. The Ministry may, in denying an Environmental Consent, propose certain modifications, if possible, to the proposed construction or other activity that will allow the Ministry to issue the proposed consent.
4. If an applicant for an Environmental Consent believes that a denial of an Environmental Consent was arbitrary or capricious, made for an illicit purpose, or not based on sound science or applicable environmental standards, the applicant may challenge the denial in court.
5. Before an Environmental Consent is issued, the Ministry, through KEPA, shall provide the public an opportunity to review the EIA report and the draft decision for no less than 15 days and no more than 30 days. During this review period, the EIA report and the draft decision shall be available for inspection by the public and a public hearing shall be held. The person intending to undertake a project shall be present at the public hearing and have an opportunity to explain the project to the public. KEPA must consider public concerns and suggestions but is not

obliged to act on them. The date, time and place of the review period and the hearing shall be published in the public media and announced in the usual local manner.

6. The Ministry shall announce its decision on the Environmental Consent in the public media within seven days of granting or denying the consent.

Article 22

Environmental Operational Permit Procedures — Environmental Permits

1. Constructed facilities, installations and machinery that have been subject to an EIA cannot commence operations without an Environmental Permit from the Ministry.
2. An Environmental Permit for operation shall be issued for a five-year period and may include technical exceptions for facilities, installations or machinery. During the application procedure and probation period for the Environmental Operational Permit, a determination shall be made as to whether such facilities, installations or machinery pollute or endanger the environment.
3. The Minister, by legal act, shall prescribe the activities that are subject to an Environmental Permit, the application form for acquiring an Environmental Permit, the content of Environmental Permit, reasons for revocation of the permit and the registry of approved permits.

Article 23

Environmental Authorization

1. Without prejudice to Articles 24 and 25 of this law, no one shall be entitled to carry out or undertake an activity that may cause an environmental strain unless that activity has received an environmental authorisation from the Ministry.
2. The Minister shall prescribe a list of activities that require environmental authorisation, the application process and the content of the authorisation.
3. An environmental authorisation is not required for those activities for which an environmental impact assessment procedure was performed.

Article 24

Notification to Neighbouring Countries

When an intended project could directly influence the environment outside Kosovo, the Minister shall inform the Government and those countries that are likely to be affected by the intended project and provide them documentation of the intended project, including without limitation, the EIA report on the project, in accordance with international conventions, including but not limited to those listed in Annex I.

ANNEX B:

Content of an EIA report

I. Identification of the project

I.1 Title of the project

I.2 Owner of the project

I.3 Location of the project

Region:

Municipality:

Provide: a map at the most adequate scale in order to establish borders, topography and ways of access to the project site.

Property Information:

I.4 Stage of advancement of the project

Specify: In what stage is the project so far?

Engineering

Project Idea:

Profile:

Pre-feasibility:

Feasibility:

Design:

Execution

Construction:

Operation:

Abandoned:

Provide: a chronogram with the planning of project activities.

II. Location of the project

II.1 Requirements of land planning

Are there any restrictions or regulations for installation of the project?

If the answer is YES, indicate what these are:

Regional Land Planning:

Protected Area:

Municipal Planning:

Other (specify):

II.2 Alternatives locations

Which are the alternatives for the location of the project (if any)?

Alternative 1:

Alternative 2:

Alternative 3:

Explain: why one alternative was chosen and the others rejected?

Justify: if there are no alternatives

III. Description of the project

III.1 Justification and objectives

1. What is the justification and general need for the project?

2. Specific objectives:

Objective 1:

Objective 2

Objective 3:

III.2 Associated projects (if any)

How is this project related to other plans, programmes or projects, ongoing or future?

Project 1: Stage:

Project 2: Stage:

Project 3: Stage:

III.3 Type of project

Define: the type of project to which the proposal corresponds.

1. Industry
2. Infrastructure
3. Solid Waste
4. Energy
5. Water Management
6. Urban Development
7. Agriculture/Livestock
8. Tourism
9. Forestry
10. Other (specify)

III.4 Characteristics of the activity

1. What are the characteristics of the proposal?
2. Plants and installations (quantity and type)
3. Size of plants and installations (area and/or volume)
4. Heights of plants and installations (metres)
5. Equipment (quantity and types)
6. Processes
7. Operations
8. Other (specify)

III.5 Inputs of the project

1. Raw materials
2. Energy
3. Method(s) of transport
4. Human resources
5. Services Requirements
6. Infrastructure Requirements

III.6 Expected outputs of the project

1. Products (types)
2. Production (quantity)
3. Services

III.7 Wastes and emissions due to the project

1. Solid wastes (t/year, m³/year)
2. Characterisation of waste
3. Liquid effluents (m³/sec)
4. Characterisation of effluents
5. Gas emissions (m³/sec)
6. Characterisation of Gas
7. Dust emissions (m³/sec)
8. Characterisation of dust
9. Noise generation (decibels)
10. Radioactive emissions
11. Odours
12. Others (specify)

Explain: treatments and measures to be taken for each.

III.8 Technologies

What technologies will be used to develop the project?

III.9 Technology alternatives considered for the project

Alternative 1:

Alternative 2:

Alternative 3:

Justify: selection of one alternative and rejection of others.

Specify: if alternatives correspond to the use of inputs, processes and/or products.

III.10 Total Investment

- What is the amount of investment of the project?
- What is the amount of investment for environmental protection?

III.11 Phases in execution of the project (mark which correspond)

1. Site preparation

2. Construction
3. Operation
4. Maintenance
5. Modification
6. Dismantling
7. Abandon

Include: a chronogram for the execution of the project.

IV. Description of the area

IV.1 Total surface to be intervened upon

1. What is the surface to be affected by the project?
2. Which area is intervened upon or occupied directly?
3. Which areas are affected indirectly?

IV.2 Description of the soil in the area

What are the characteristics of the soil in the area affected by the project?

1. Topography:
2. Geology:
3. Geomorphology:

Include: a topographic survey of the area, map of slopes, etc.

IV.3 Description of water in the area

What are the characteristics of the water in the project area?

1. Hydrology:
2. Precipitation:
3. Drainage:

IV.4 Physical and natural characteristics of the area

1. Which types of water bodies exist in the area (rivers, lakes, ponds, springs, etc.)?
2. Which types of vegetation exist in the area?

3. What are the quality characteristics of the soils to be occupied?
4. Which species of wild fauna are predominant in the area?
5. Which species of wild flora are predominant in the area?
6. What are the characteristics of climate in the area?
7. What is the altitude of the area to be intervened upon?

IV.5 Previewed use of natural resources

1. Are there space modifications in the area?
2. Which is the intervention of natural resources as a result of the project?
3. How will this intervention be made?
4. Why is this intervention necessary?

IV.6 Degree of present intervention of the area

1. Is it there any present intervention upon the area?
2. Is it there any environmental degradation in the area?

IV.7 Social effects of the project

1. Are there any human settlements in the area of the project installation?
2. Are there any cultural, educational or religious centres in the surroundings of the area of the project, and how will these be affected?
3. Are there interventions upon zones of archaeological and/or anthropological interest in the area of the project installation?
4. Are there any risks to the population due to the project installation?

IV.8 Include the environmental mitigation and remedial measures intended to be undertaken while the project is underway and afterwards.

A content list for quarries:

I. Description of the proposed quarry

- a. Purpose and justification (is the new quarry really necessary and the impact justified?)
- b. Project description
- c. Primary impact area

II. Description of existing conditions

- a. Natural environment (soil, vegetation type, surface and underground water, landscape and visibility)
- b. Human-made environment (land use, settlements, roads etc.)

III. Assessment of environmental impacts (see attached matrix)

- a. Topography, geology and soils
- b. Water quality and drainage

- c. Ecological conditions
- d. Land use and socio-economic functions
- e. Landscape
- f. Health
- g. Air quality
- h. Noise
- i. Population displacement and resettlement

IV. Evaluation and discussion of alternatives to the proposed project

- a. No project
- b. Alternative to the project
- c. Alternative within the project

V. Compensation for Environmental Impacts

- a. Neutralisation (measures to neutralise certain impacts)
- b. Green compensation (e.g. planting of trees for erosion control and reduction of visibility)
- c. Financial compensation (other projects to improve the environment will be implemented if it is not possible at the proposed site (reforestation, cleaning up etc.))