

Albania National EIA Overview

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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) was introduced in Albania in the Law on Environmental Protection (No. 7664 of January 21, 1993) and amended by Law No. 8364 of July 2, 1998. The law defines basic provisions and empowers the Ministry of Environment (MoE) to specify those activities that will be subject to assessment.

Following the shift in 1990 towards democracy, changes in the political structure and the free movement of population have had a great impact on the country's socio-economic structure. As a result of the changes during this period, an increased number of parallel activities and development projects in several fields have been initiated, many of which could have considerable environmental impact.

Taking this situation into consideration, the MoE identified the establishment of effective EIA and strategic environmental assessment (SEA) systems as a priority. Not only will these systems assist in meeting new challenges of country development, but they will also help to mitigate any possibly negative impacts of new projects, policies, plans and programmes.

Bearing this in mind, the Law on Environmental Protection was formulated and approved by the Albanian Parliament and entered into force in October 2002. This new law contains a special chapter on EIA, and a more specific EIA law has been approved in 2003.

Brief descriptions of legal acts, regulations and other provisions concerning EIA in Albania

The EIA procedure is explained in the EIA Law (No. 8990 of January 23, 2003), while the main concepts and interested actors in the process are defined in the Law on Environmental Protection (No. 8934 of September 5, 2002), Chapter IV.

Chapter IV on EIA and SEA, of the Law on Environmental Protection contains eight articles regarding EIA and SEA. The section on EIA states that the EIA

process is the responsibility of the developer. Public participation and local government each play principal roles in the process.

This chapter's articles pave the way for the EIA Law that regulates the administrative part of the process. It also grants rights to objections and court appeals against final decisions of the MoE on proposed projects and EIA procedure.

The law presents a concept of approval from the MoE for the first time, namely:

- an environmental statement (declaration) issued by the MoE;
- an environmental authorisation issued by the MoE/regional environmental authority (REA); and
- an agreement issued by an REA.

The issues of environmental authorisation and agreement are regulated within the law, while government decisions are detailed in a separate article.

Regarding construction permits, the MoE does not issue environmental authorisations, but instead issues a declaration by which it agrees to or refuses a request, accompanied by any additional comments.

The new EIA Law also:

- determines the lists of projects which require a full or partial EIA, and also lists the criteria by which projects are selected (annexes 1 and 2);
- specifies the contents of full and partial EIA reports;
- provides a timetable for the process;
- describes a developer's rights and duties, provisions for public participation — including descriptions of roles of non-governmental and governmental organisations — and determines the position of REAs within the process.

The law also introduces and implements the SEA process through the same procedure as that of Annex 1 projects that require a full EIA.

New and planned environmental requirements relevant to EIAs

One of the MoE's main priorities is to strengthen the legislative framework for environmental protection, which will also help to improve the effectiveness of environmental enforcement. The need for legislative development is considered necessary to complete the environmental legal framework, not only to fill in identified gaps, but also to incorporate the standards of relevant EU directives.

For this reason, MoE efforts (based on the work done previously by the National Environmental Agency drafting environmental laws) have led to the preparation of a set of environmental draft laws.

Much remains to be done in order to complete the secondary environmental legislation connected with the new environmental laws. Specifically, with respect to EIAs and SEAs, it is necessary to develop guidelines, checklists and other implementation tools on new assessment procedures as laid down in the recently approved EIA Law and the Law on Environmental Protection. This is an imperative duty, due to the fact that these laws include several issues that need to be addressed as soon as possible. It follows, therefore, that the issues must be carefully prioritised according to the urgency in which they must be addressed.

Implementation of Council Directive 97/11/EC

Council Directive 97/11/EC is implemented in both the Law on Environmental Protection and the EIA Law.

Administrative arrangements and procedures for coordinating EIA within or between jurisdictions

Albania's first governmental institution for environmental protection was established in 1992 (the Committee for Environmental Protection), but became the National Environmental Agency (NEA)¹ in 1996 under the Ministry of Health and Environment. In 1998, the NEA was made independent from the ministry. The establishment of the first MoE in September 2001 was a real challenge. Despite the MoE's relatively small position within the Albanian government, it is striving to become more influential and to introduce an effective system of environmental management in the country.

The establishment in May 2001 of the new Directorate of Environmental Impact Assessment is also significant. In order to improve the MoE administration, the structure of the ministry, including the structure of the

EIA Directorate, has also been changed, following the new Law on Environmental Protection. The main responsibilities of the EIA Directorate include implementation of EIA and environmental permitting, inspection and enforcement of environmental laws and standards, and preparation of relevant laws, by-laws, checklists and guidelines regarding EIA and SEA.

The Inspectorate for Environmental Protection is also a newly established body. It has 43 employees, including REA inspectors. The chief inspector for environmental protection and three other employees, are based at the MoE.

Since two of the main activities of the EIA Directorate and the Inspectorate for Environmental Protection are EIAs and permitting, cooperation with two of the ministry's technical directorates (the Management of Natural Resources and Biodiversity Directorate, and the Pollution Prevention and Control Directorate), in addition to the legal sector, is considered highly important to carrying out these duties.

The structure and roles of regional environmental agencies in 12 prefectures remain unchanged. However, much needs to be done in order to increase legislative authority, communication, awareness among environmental stakeholders, numbers of local staff, etc.

Duties such as guiding developers in preparing EIA reports, receiving EIA reports and other required documentation, reviewing EIA reports, inspection of areas proposed for development, and preparation of MoE opinions are the responsibility of regional environmental agencies, according to the new EIA Law.

All applications for environmental permits need to be processed through REAs. Subsequently, the necessary documentation is sent to the MoE's EIA Directorate and the Inspectorate for Environmental Protection, where an application is reviewed and a draft permit is prepared. The draft permit is discussed with technical directorates and legal bodies to finalise conditions put forth in the draft permit. The Permitting Commission then discusses the documentation. If the application for an environmental permit is rejected, the developer receives official notice of this decision.

Major players in the EIA process

Major players in the EIA process in Albania are detailed as follows:

- environmental authorities and representatives at the local and regional levels responsible for setting up policies, legislation, permits, compliance and enforcements (The MoE is the central body in the environmental field, along with its regional environmental agencies, who are dependent upon it. The MoE operates in close collaboration with several other

ministries and institutions on specific EIA-related issues, such as the Ministry of Agriculture and Food, Ministry of Health, Ministry of Territorial Planning and Tourism, Ministry of Industry and Energy, Ministry of Transport and Telecommunication, as well as councils of communes, municipalities or districts and the relevant administrative units that, according to the Law on Environment Protection, inherit their rights and duties regarding environmental protection issues at national, communal and municipal levels.);

- developers and investors responsible for preparing proper applications, implementation of permitting conditions and self-monitoring of standards, etc.;
- consultants and experts that prepare EIA reports;
- scientific and research institutions that conduct studies in the environmental field (Academy of Science, Research Institute of Chemical Studies, Institute of Biological Research, etc.); and
- NGOs that play an important role in raising awareness, conservation and protection of natural and cultural values, etc. (There have been approximately 75 environmental NGOs established since 1991.)

Range and level of professional, educational, technical skills available within a country to support the EIA process

Albania lacks the professional skills to adequately cope with the EIA process because national EIA legislation has only just now been approved. There is a large number of highly qualified scientists and specialists in different areas who can contribute to the EIA process, evaluate environmental impact and take measures to mitigate environmental problems. These individuals, however, are generally not orientated with the overall EIA concept and process. There have been (as will be described later) a number of donor-sponsored training programmes in this field for some specialists, but there is still room for further improvement in this area.

The situation in this regard will improve with the newly approved Decision of the Council of Ministers (No. 268 of April 24, 2003) on EIA and environmental auditing expert accreditation. The MoE is in the process of collecting applications for accreditations. Until now, there have been no experts accredited.

EIA training and capacity-building programmes present in Albania

The most advanced and ongoing EIA capacity-building programme is the education offered at the Department of Environmental Engineering, Faculty of Civil Engineering at the Technical University.

The Department of Environmental Engineering has been developing the EIA training module since September 1997. The course is designed for students of two specialty disciplines: energy efficiency and wastewater treatment. The course targets students in their final (fifth) year. The duration is 10 weeks in the second semester (two 90-minute sessions per week). This is a mandatory course and is organised around 10 lectures, 10 seminars and case studies. Each student is required to prepare an EIA report for a project selected by either the student or lecturer. The course content includes:

- introduction to EIAs;
- the nature and purpose of EIAs and SEAs;
- planning policy and EIA legislation;
- framework for EIA study: the seven-stage system (screening, scoping, profiling, risk assessment, risk management, implementation and decision making, monitoring and post-project evaluation);
- preparing and reviewing an EIS;
- impact, monitoring and mitigation in different fields and different projects;
- costs and benefits of EIA systems; and
- case studies.

Students who graduate from this department will be eligible to work for environmental departments within the ministries, REAs, municipalities and state-owned and private companies.

There have also been programmes undertaken by international agencies and donor agencies that have contributed towards the capacity building of EIA professionals, namely:

- UNEP/PAP/RAC EIA training (1995);
- Phare programme (1996) Institutional Strengthening of NEA for the improvement of permitting systems and procedures;
- METAP EIA institutional strengthening project (ongoing);
- DFID Project (2001 to 2003) for institutional strengthening, supporting the MoE; and
- REReP project on institutional strengthening of the MoE and its inspectorates — within REAs (ongoing).

Environmental Impact Assessment

Links between EIAs and consent for development

Types of consent² that require the EIA procedure to be carried out prior to issuance

According to the existing Law on Environmental Protection and the EIA Law, an environmental permit is issued for projects that require the EIA procedure to be carried out. There is no other type of consent¹ that requires the EIA procedure before an environmental permit is issued.

There are other types of consent (such as construction and operating permits) that entitle a developer to proceed with a project. According to the Law on Environmental Protection and the new EIA Law, four types of environmental consent can be issued:

- environmental declaration;
- environmental permit;
- approval; and
- authorisation.

These are official documents that define conditions and circumstances under which approved activities will be developed.

Outcomes of the EIA process and their effect on the consent process

EIA outcomes are binding with regard to reaching a decision in the development consent process.

Other types of non-EIA analyses and permits needed

The MoE, through the regional environmental authorities, issues all environmental permits for social and economic activities. According to the existing law, national and local government authorities can issue construction and operating permits for natural or legal persons for activities that impact the environment, but only if the MoE has issued an environmental permit.

The responsible ministry issues construction and operating permits:

- The Ministry of Territorial Planning and Tourism and local government authorities issue construction permits.
- Operating permits are issued by the Ministry of Industry and Energy, Ministry of Agriculture and Food, Ministry of Health, etc. prior to execution of the project execution.

Screening

Which authority determines whether a project presented by a developer requires an EIA?

The MoE and its agencies (REAs) determine whether a development project requires an EIA.² Chapter III, Art. 6 of the EIA Law states that the REA responsible for the region where a project will be implemented is responsible for determining whether or not the project requires an EIA.

How is EIA determined to be necessary for a project?

The Law on EIA includes a list of projects that is fully in compliance with Annex I of the EC Directive EC — with some changes made according to capacities and various country specifics.

There are two lists of projects determined for an EIA:

- those projects which require a full EIA; and
- those projects which require a partial EIA.

An REA reviews an EIA report first. It examines the lists of activities to reach a decision as to whether a full or partial EIA is needed.

Who is consulted during the decision-making process?

In certain cases while applying for a building permit, developers are asked by REAs, other local-government offices, or at meetings of the Council of Territorial Management to apply for an environmental permit. However, in such cases, REAs still make decisions as to whether or not the project requires an EIA.

When REAs determine the need for an environmental permit, they then ask the developer to inform and cooperate with the MoE.

There is no specific requirement for public participation at the screening stage, according to the EIA Law. However, following Article 26 on public participation, the interested public and environmental non-governmental organisations may participate in all stages of the EIA.

How many EIAs are carried out per year?

The number of applications for environmental licenses has been growing since 1993, due not only to economic growth, but to increased state authority and, especially, stronger competency of the MoE authority. On average, more than 350 licenses are prepared each year. These licenses span a breadth of different sectors, industries and services. For example, there have been about 100 licenses granted to fuel wholesalers and about 45 to quarries. The MoE has approved a highly detailed list of activities requiring an environmental permit.

Defining the contents of an EIA report

Is there a requirement to prepare an EIA report for all activities that are subject to the EIA process?

An EIA report must be prepared for all activities that are subject to the EIA process, as this is the main document providing the basis upon which the EA reaches its decision on a project. The new EIA Law, in the section regarding EIA report contents, provides precise requirements concerning both full (Article 9) and partial (Article 8) EIA reports.

May competent authorities specify the exact contents of an EIA report?

The content requirements of EIA reports are improving and, as mentioned earlier, will become even more specific upon approval of the EIA Law. Public involvement in the procedure ranges from a simple approval document included in the material submitted by the applicant, to actual public consultation throughout the entire process.

Is accreditation required to prepare an EIA report?

The MoE has identified accreditation in the preparation of an EIA report as one of its main priorities. EIA reports are being prepared by different experts all over the country, but until now projects requiring environmental

prepared permits have not been on a very large scale. There have been exceptions; notably, foreign experts have prepared a few large projects for which EIA reports were required. The increasing number of activities and projects and their importance, however, have strengthened the need for accreditation in the preparation of these reports. This is why the EIA Law has more clearly defined the process of licensing natural or legal persons, in addition to calling for MoE field experts in the preparation of EIA reports.

The detailed provisions for expert accreditation on EIA and environmental auditing were introduced by a Decision of the Council of Ministers (No. 268 of April 24, 2003).

Is it compulsory to analyse project alternatives?

The MoE can require at least two alternatives for project location/site selection for Annex 1 projects that require a full EIA.

Can competent authorities require that certain project alternatives are evaluated within an EIA report?

Competent authorities may require an evaluation of project alternatives within the EIA process. This has happened in only a limited number of cases. Following the approval of the EIA Law and other by-laws, competent authorities will henceforth require project alternatives to be evaluated within EIA reports.

Who must be consulted when defining the contents of an EIA report?

Within existing legislation, the MoE or the relevant state agency assists the developer in preparing an EIA report. In the new legislation, the contents of the two report options (full and partial) are spelled out in greater detail. This provides guidance for REAs in determining the contents of each EIA report.

The MoE and REAs assist the developer in preparing the EIA Report, and they explain which elements of the general guide need to be developed in depth, as well as those that are not as much important according to the specific activity and environmental impact.

Because this procedure is not complete and allows room for uncertainty and subjectivity, the EIA Law requires the preparation of sectoral guidelines. For the time being, the main sectors and activities for which environmental permits are required have been identified in order to proceed with the preparation of sectoral guidelines.

Competent state and regional agencies (regional forestry offices, etc.) or municipal and communal author-

ties are consulted in the preparation of activity-specific EIA reports, even if official documents are required for approval of a proposed activity.

The public most likely to be affected by a given project is consulted, and written documents describing the consultation procedures and public comments need to be included in an application for an environmental permit.

In the EIA Law, neither the public affected nor the general public may participate in defining the contents of an EIA report. They merely comment on the project and the EIA report during a public debate (consultation). Afterwards, they may submit their comments to the MoE.

Article 20 defines the role of public debate at the scoping stage. The EIA report is available to the public for one month.

Reviewing an EIA report

Who are the competent authorities responsible for reviewing an EIA report?

REAs are the first to review an EIA report. Applications for an environmental permit are also submitted to REAs, who then review them and decide if the EIA reports are adequately prepared, taking into consideration all necessary criteria.

REAs have a limited number of experts. They are able, in most cases, to review EIA reports and evaluate them because the given activities or projects involve either a simple procedure or are of relative environmental insignificance. If everything within an EIA report is deemed to be in order, the entire documentation, along with the REA's opinion, is sent to the MoE for final review by experts within the EIA Directorate, the Biodiversity and Nature Protection Directorate, and the Prevention and Pollution Control Directorate.

REAs and the MoE are the responsible authorities for reviewing EIA reports, according to existing legislation.

Article 14 of the EIA Law stipulates that the REA, upon reviewing an EIA report, consults with local government authorities (urban and tourism development authorities) and proposes conditions for approval of the document. The MoE has a permanent commission responsible for reviewing reports and the decision-making process (Article 16 regulates the issues pertaining to the commission).

Depending on its needs, the MoE engages individuals or a group of experts to perform reviews of EIA reports (according to Article 18).

Who actually carries out the review?

As mentioned earlier, REAs are the first reviewers. They are responsible for reviewing EIA reports, checking whether or not everything is included in an application

for an environmental permit, inspecting the area where the project is going to be developed, and preparing written comments for the MoE. The only documentation submitted to the MoE for further consideration is that which is complete and deemed to pose no significant problems.

The EIA Directorate and the Inspectorate for Environmental Protection review the documentation, and if everything is considered to be complete, this directorate prepares the draft permit. Then, two technical directorates (Biodiversity and Nature Protection, and Prevention and Pollution Control), along with the legal sector, review the documentation along with the EIA report. Either the draft permit is accepted as is, or more conditions may be added.

The Permitting Commission was established in order to ensure that environmental permits are issued at a professional level that provides uniformity with respect to MoE legal requirements. Commission membership includes various experts from within the MoE: EIA Directorate, Biodiversity and Nature Protection Directorate, Prevention and Pollution Control Directorate and the legal sector. All draft permits are discussed by this commission, which may approve or reject a given activity.

While REAs conduct an initial review, a second review is made by the MoE through the technical directorates and, when necessary, by contracted experts.

Who must be consulted during the review of an EIA report?

There is no obligation to organise consultations during the review of an EIA report. In specific cases, when identified as necessary in particularly complicated cases, consultations with other ministries, institutions, local authorities, NGOs or the public may be requested. The manner of involvement is specific to different cases.

According to existing practices and the EIA Law (Arts. 18 and 19), consultations may be made with the following:

- central state authorities monitoring the project site;
- urban and tourism development authorities;
- local authorities;
- specialised institutions in charge of forecasting environmental impact;
- environmental NGOs; and
- the effected public.

The first four groups of authorities listed above are contacted in writing, and their opinions must also be provided in writing. These authorities are invited to participate with either environmental NGOs, the effected public or the developer. Open public debates are organised for discussions on both the project and its EIA, according to Article 20 on public debate.

Which bodies ensure quality of and/or verify EIA reports?

It is the responsibility of technical directorates within the MoE to ensure the quality of EIA reports and to verify them.

According to existing legislation, EIA experts (Albanians and foreigners alike) in specific complicated or sensitive cases, may be asked to review EIA reports and offer their opinion.

EIA post-monitoring and analysis

Is there any special requirement to plan post-EIA monitoring as a part of the EIA report?

The post-monitoring process (or, inspection) included in the new Law on Environmental Protection is carried out by an REA inspector in collaboration with MoE inspectors. Inspectors review the fulfilment of conditions of a granted environmental permit.

REA inspectors report to the MoE on the implementation of a project and its environmental permit.

A developer is obligated to carry out periodical analyses of environmental conditions and report them to the REA.

When there are complaints from an effected public, REAs perform environmental audits (introduced for the first time in the new Law on Environmental Protection).

The REA or MoE may revoke or revise an issued environmental permit if the ecological conditions have changed during the course of project implementation. Also, if the project will not be implemented within a two-year period, the REA or MoE may revoke or revise an issued environmental permit, and the developer must carry out a new EIA.

Can a competent authority require other analyses on the basis of the EIA process?

Re-evaluation of a project and its activities is carried out periodically by order of the Minister of Environment, but not later than once in five years.

Endnotes

- 1 Development consent is granted by decision of a competent authority or authorities, and entitles a developer to proceed with a given project.
- 2 A developer is one who applies for authorisation of a private project, or any public authority who initiates a project.

Espoo Convention

Which legal procedures have been established in Albania to incorporate requirements of the Espoo Convention?

Albania signed the Espoo Convention in 1991, and the country's environmental legislation was amended to incorporate its requirements.

The new Law on Environmental Protection includes one EIA-related article in a transboundary context. For all projects requiring an EIA that may have considerable environmental impact on a neighbouring country the Republic of Albania applies UNECE Convention principles on "EIA in a transboundary context."

Which authority determines whether a project requires a transboundary EIA?

The MoE is the responsible authority for determining if a project requires a transboundary EIA. Insofar as EIA procedures in a transboundary context need to be regulated by law, the MoE has prepared procedures for incorporating requirements of the Espoo Convention.

How are transboundary EIAs determined for projects?

Having ratified the Espoo Convention, projects subject to transboundary EIA are determined according to the list provided in Annex I of the Espoo Convention.

How many transboundary EIAs have been carried out so far?

Thusfar, no transboundary EIAs have been carried out in Albania. There are some instances of collaboration with neighbouring countries that cannot be considered typical cases of transboundary EIA.

Are likely transboundary impacts assessed as part of a standard EIA report, or is special documentation required?

The new EIA Law (Article 9) describing the content of the full EIA report, requires the inclusion of the assessment of transboundary environmental impacts (if they exist).

Are provisions for consultations between concerned parties being determined through bilateral agreements with neighbouring countries?

A memorandum of understanding between the Albanian NEA (the current MoE) and the MoE of the FYR Macedonia was signed in 1996 at the governmental level and in 2000 at the ministerial level within the framework of the Lake Ohrid Protection Project.

A protocol was signed between the NEA (MoE) and the MoE of Montenegro in 2001 at the ministerial level within the framework of Buna River and Shkodra Lake Protection Project.

A memorandum of understanding between the NEA (MoE) and Greece was signed in February 1999 at the ministerial level within the framework of Small Prespa Protection Project.

A draft memorandum of understanding between the NEA (MoE) and MoE of Montenegro has also been prepared.

Memoranda of understanding with the MoEs of Montenegro and Greece were also signed in the field of environmental protection.

There are also other draft agreements in preparation.

Strategic Environmental Assessment

Application of Environmental Assessment to Plans, Programmes and Policies

What types of plans, programmes or policies within the spatial planning and other sectors require some sort of environmental assessment?

According to the existing Law on Environmental Protection and the new Law on Environmental Protection, SEAs are required for policies, strategies and development plans in the following fields: energy, transport, agriculture, tourism, industry, services within territorial regulation, and general social and economic development.

Article 5 of the draft EIA Law determines that SEAs are required for:

strategies and action plans for energy, mines, transport,

- agriculture, forests, administration of natural and mineral resources, and waste administration; and
- national and regional territorial plans for urban and rural areas, industrial areas, coastal areas, tourist areas, protected areas, and those areas either damaged or highly sensitive to pollution.

The state authority or natural and legal entity representing a proposal listed above, prepares the SEA report and submits it to the Ministry of Environment.

Procedures, time schedules and responsibilities of parties in all phases of an SEA are the same as for those projects which require a full EIA.

Defining the contents of an SEA report

This has yet to be identified and is not currently regulated.

Reviewing an SEA report

Procedures, time schedules and party responsibilities throughout each phase of an SEA are the same as for those projects which require a full EIA.