

GOVERNMENT OF ROMANIA

Decision no.1076 of 8.07.2004

for setting up the environmental assessment procedure of certain plans and programmes (Of.J.no.707 of 5.08.2004)

On the basis of the provisions of art.108 from Romanian Constitution, republished, of art.7² of Law no. 137/1995 on environmental protection, republished and amended

The Government of Romania has adopted this decision:

Chapter I General Provisions

Art. 1 – (1) The objective of the present decision is to provide for a high level of environmental protection and to contribute to the integration of environmental considerations into the preparations and adoption of certain plans and programmes, in order to promote sustainable development by carrying out an environmental assessment for the plans and programmes that are likely to have significant effects on the environment.

(2) The present decision sets up environmental assessment procedure, applied in order to issue the environmental approval necessary for adopting plans and programmes which are likely to have significant effects on environment, defining the role of the competent authority for environmental protection, the consultation requirements of interested stakeholders and of the public participation.

(3)The environmental assessment is integrated within the adopting procedure of certain plans and programmes.

Art. 2 – (1) The specific terms used in the present decision are defined as follows:

a) *environmental approval for plans and programmes*: technical legal act, issued, in written form, by the competent authority for environmental protection, which confirms the integration of the aspects regarding the environmental protection into the plan or programme submitted to adoption;

b) *environmental assessment*: the preparation of environmental report, the consultation of public and of the public authorities concerned by the environmental effects of implementing plans and programmes, taking into account the environmental report and the results of the consultations in decision-making process and the provision of information on the decision.

c) *plans and programmes*: plans and programmes, including those co-financed by the European Community, as well as any modifications to them, which:

i) are subject to preparation and/or adoption by an authority at national, regional, or local level or which are prepared by an authority for adoption, through a legislative procedure, by Parliament or Government, and

ii) are required by legislative, regulatory or administrative provisions;

d) *public*: one or more natural or legal persons and, in accordance with national legislation or practice, their association, organisations or groups.

e) *environmental report*: part of the plan or programme documentation which identify, describe and assess the likely significant environmental effects of their implementation and their rational alternatives, taking into consideration the objectives and the geographical area of the plan or programme, as required by Annex 2;

f) *the plan or programme owner*: any public authority, as well as any natural or legal person which promotes a plan or programme in accordance with the definition from let.c).

Art.3.- (1) The environmental assessment is carried out during the preparation of the plan or programme and is finalized before its adoption or submission to a legislative procedure .

(2) The present procedure is carried out in stages, as follows:

- a) the screening stage of the plan or programme;
- b) finalizing the draft plan or programme and drawing up of the environmental report stage;
- c) the review of the quality of the environmental report stage.

Art.4.- The environmental assessment for plans and programmes developed at regional or local level which are integrated in the national or regional plans or programmes that have already been submitted to an environmental assessment will take into account the result of this assessment, in order to avoid duplication. In this case there are also taken into consideration the provisions of art. 20.

Chapter II

Scope

Art.5 – (1) The environmental assessment is carried out for the plans and programmes that could have significant environmental effects, in accordance with the provisions of par. 2-4.

(2) An environmental assessment shall be carried out for all plans and programmes:

a) which are prepared for agriculture, forestry, fishing and aquaculture, energy, industry including activity of mineral resources extraction, transport, waste management, water management, telecommunications, tourism, town and country planning or land use, regional development and which set the framework for future development consent of projects laid down in Annex 1 and 2 to Governmental Decision no.918/2002 regarding the setting of the framework procedure of environmental impact assessment and for approval of the public or private projects list subject to this procedure, or which

b) due to the likely effects on sites, have an impact on the special protection areas and special conservation areas established by Emergency Government Ordinance no. 236/2000 on natural protected areas regime, natural habitats, wild fauna and flora preservation, approved with amendments by Law no. 462/2001;

(3) Are submitted to environmental assessment only in case of significant environmental effects:

a) the plans and programmes referred to in par. (2), which determine the use of small areas at local level;

b) minor modifications to the plans and programmes referred to in par. (2);

c) the plans and programmes which establish the framework for future development consent of projects, others than those referred to in par. (2).

(4) The decision on the existence of the likely significant environmental effects of the plans and programmes referred to in par. (3) is made on a case by case examination, according to provisions of art. 11.

Art. 6 – (1)The provisions of the present decision do not apply to the plans and programmes:

a) whose the sole purpose is the national defence or civil protection;

b) financial or budgetary;

c) supporting the rural development through the European Agricultural Guidance and Guarantee Fund – Guarantee Section, for 2007.

(2) Plans and programmes co-financed by the EU through Structural Funds or through sustainable rural development funds, including through the European Agricultural Guidance and

Guarantee Fund – Guarantee Section of which the first formal preparatory act is before 2006 or 2007, as appropriate, and which are adopted or submitted to the legislative procedure after this date, are subject to the present procedure.

Art. 7. – (1) The environmental assessment procedure shall be applied by the plan or programme owner authorities in co-operation with competent authorities for environmental protection, with the consultation of the public central or local authorities, as appropriate, for health and those concerned by the effects of implementing plans and programmes, as well as with the public and is finalized by issuing the environmental approval for plans and programmes.

(2) The issuing competence of the environmental approval belongs to Regional Environmental Protection Agencies for local and county plans and programmes, and to central public authority for environmental protection for national and regional plans and programmes.

(3) Public participation in the environmental assessment procedure is carried out early, from the beginning of the plan or programme.

Art. 8. – The competent authorities for environmental protection apply taxes for issuing the environmental approval, paid to State treasury, as follows:

- a) 250.000 lei for each local plan;
- b) 500.000 lei for each county plan;
- c) 750.000 lei for each regional plan;
- d) 1.000.000 lei for each national plan.

(2) The competent authorities for environmental protection apply tariffs for carrying out the procedural stages, according to Annex 4.

(3) The tariffs are paid in advance, on procedural stages, to headquarter of the competent authorities for environmental protection. In cases laid down in art. 38 the tariffs are paid to the authority for environmental protection involved in respective procedural stage.

(4) The amounts of the tariffs are updated by order of the minister of environment and water management.

Chapter III

Procedural steps

Section 1

Screening stage

Art. 9 – (1) The plan or programme owner must notify in writing the competent authority for environmental protection and inform the public on starting the elaboration of the plan or programme and carrying out of its first version, by repeated announcements in newspaper and by displaying on his own web site, according to art. 29 par. (2).

(2) The plan or programme owner shall make available for the competent authority for environmental protection and for the public, in view of consultation, the first version of the plan or programme.

(3) For the plans and programmes referred to in art.5 par.(2), the competent authority for environmental protection announces, in written form, the plan or programme owner about the obligation to carries out the environmental assessment, in 10 calendar days from the date of receiving the first version of the plan or programme.

(4) The public may formulate written comments and suggestions on the proposed plan or programme and its possible effects on environment, in accordance with art. 29 par.(2), which are sent to the competent environmental authority headquarter.

Art. 10 – (1) The competent authorities for environmental protection shall lead the screening stage for which they are notified by the owner of the plan or programme.

(2) The screening stage shall be carried out with the consultation of the owner of the plan or programme, the health authority and the authorities concerned by the effects of implementing plan or programme within a committee specially established for this purpose.

(3) The competent authorities for environmental protection shall identify the public authorities which, by reason of their specific tasks and responsibilities in the field of environmental protection, are concerned by the effects of implementing plan or programme.

(4) The committee foreseen in par. 2 shall be established, at central level, by order of the Head of the public central authority for environmental protection and at regional, county, local and Bucharest level, including in case of the “Danube Delta” Biosphere Reservation Administration, by order of the head of the competent regional authority for environmental protection.

(5) The owner of the plan or programme must submit to the committee established for this purpose, for the consultation, the first version of the plan or programme.

Article 11 – (1) For the plans and programmes laid down in art. 5 par.(3), the competent authorities for environmental protection shall decide if these may have significant effects on environment, on a case-by-case examination, taking into account the relevant criteria laid down in Annex 1.

(2) In carrying out the screening, the public comments shall be taken into consideration, in accordance with article 9 par. (4).

(3) The competent authority for environmental protection shall take the screening decision on the ground of the consultations within the committee laid down in article 10 par. 2, within 25 calendar days from the receiving of the notification.

Art. 12 – (1) The competent authorities for the environmental protection inform the public on the motivated decision of the screening stage, by displaying it on its own web site, within 3 calendar days from the decision making. The decision shall be published in the newspaper by the owner.

(2) The public may formulate comments on the decision of the screening stage, which shall be sent in writing to the competent authority for the environmental protection, within 10 calendar days from the publishing of the announcement.

(3) The competent authority for the environmental protection may reconsider the decision on the screening stage, on the basis of the justified proposals of the public within the consultations carried out within the committee established for this purpose, within 15 calendar days from the end of the term laid down in par.(2). The final decision, motivated is brought to the public knowledge, within 3 calendar days, by displaying it on its own web site. The final decision shall be published in the newspaper by the owner.

Art.13. – The plans and programmes, that, after the screening stage do not need environmental assessment, are to be subject to the adoption procedure without environmental approval.

Section 2

Finalizing the draft plan or programme and drawing up of the environmental report stage

Art.14 – (1) Finalizing the draft plan or programme, establishing the scope and detailed level of information that must be included in the environmental report, as well as the analyses of the

significant effects of the plan or programme on the environment are carried out within a working group.

(2) The working group is composed by the representatives of the plan or programme owner, of the competent environmental and health authorities, of other authorities concern by the effects of implementing the plan or programme, identified according to art.10 par.(3), one or more natural or legal persons certified according to the legal provisions, as well as employed experts, as appropriate.

(3) The setting up of the group foreseen in par.(1) is the responsibility of the plan or programme owner. The working group is not a permanent structure, being set up especially for the respective plan or programme, on the basis of the designations made by the authorities which are represented. The designations shall be made at the owner's request.

(4) The task of the working group is the accomplishment of the provisions of the art.16-19.

(5) The opinions expressed within the working group are registered in minutes signed by the members of the working group. One copy of the minutes is kept by the competent environmental authority.

Art. 15. – (1) The plan or programme owner presents within the working group the specific objectives of the plan or programme.

(2) The certified persons, together with the employed experts, as appropriate, analyze the significant environmental issues, including the current state of the environment and its evolution without the implementation of the plan or programme, and identify the relevant environmental objectives related to the specific objectives of the plan or programme.

(3) The results of the activity foreseen in par. 2 are presented to the working group.

Art.16.- (1) The plan or programme owner draws up the possible alternatives, taking into consideration the objectives and geographical area of the plan or programme, as well as the information provided for in art.15 par.2. The possible alternatives are presented to the working group.

(2) The working group assesses how the proposed alternatives are compatible with the relevant environmental objectives of the plan or programme.

Art. 17- The plan or programme owner draws up, in detail, based on the recommendation of the working group, the alternatives which fulfil the relevant environmental objectives for the plan or programme.

Art.18- (1) The certified persons, together with the employed experts, as appropriate, analyze the significant effects on the environment of the alternatives proposed by the plan or programme owner using the criteria provided in Annex 1 and establish the prevention, mitigation, offset and monitoring measures of the significant effects on the environment for each alternative of the plan or programme, making recommendations.

(2) The measures and recommendations provided for in par.(1) are presented to the working group.

Art.19- (1) Taking into consideration the information provided for in art.18, the plan or programme owner establishes and presents to the working group:

a) the final alternative of the plan or programme,
b) the prevention, mitigation and offset measures of the significant environmental effects,
c) the monitoring programme of the significant environmental effects of implementing the plan or programme.,.

(2) The final alternative represents the draft plan or programme.

(3) The certified persons, together with the employed experts, as appropriate, analyze the measures proposed by the plan or programme owner, as well as the monitoring programme and draw-up the environmental report.

(4) The framework content of the environmental report is laid down in Annex 2.

Art. 20 – (1) The environmental report identifies, describes and assesses the likely significant environmental effects of implementing plan or programme, as well as the reasonable alternatives of the plan or programme, taking into account the objectives and geographical area of the plan or programme.

(2) In preparing the environmental report are taken into consideration the information obtained by observing the provisions of art.14-19, as well as all the relevant information regarding the environmental effects of available plans and programmes obtained at other decision levels or through other normative acts.

(3) The information provided in environmental report shall be correlated with the current knowledge and methods of assessment, the content, detail level of the plan or programme and its stage in decision making process.

(4) For local or regional plans and programmes, which will be integrated into regional or national plans or programmes, that have already been submitted to environmental assessment, the environmental report shall take into account the result of this assessment, the stage of the plan in the decision making process, as well as the extent to which certain matters are better evaluated at other decision-making levels, with a view to avoid duplication of the assessment..

Art.21- (1)The owner of the plan or programme shall announce in the newspaper including by displaying on its own web site the availability of the draft plan or programme, finalizing the environmental report, the place and their consultation schedule and the possibility for the public to make written comments, according to art.30 par.(2).

(2) The public concerned can express their comments on the draft plan or programme and on the environmental report and transmit these comments to the plan or programme owner and to the competent authority for environmental protection.

(3) The owner of the plan or programme modifies the draft plan or programme and/or the environmental report based on the justified observations received from the public.

Section 3

Review of the quality of the environmental report and decision-making stage

Art.22.- (1)The plan or programme owner shall transmit the draft plan or programme and the environmental report, within 5 calendar days from the date of finalizing the environmental report, according to art.21 par.(3), to the competent authority for environmental protection, for health and to the authorities concerned by the effects of implementing plan or programme, identified according to art.10 par.(3).

(2) If the implementation of the plan or programme may have significant transboundary effects, the owner shall transmit the draft plan or programme and the environmental report, in English, by means of the central public authority promoting the plan or programme, to the central environmental authorities of the potentially affected states within maximum 20 calendar days from the date of finalizing the environmental report, according to art.21 par.(3).

(3) The competent authority for health and the other authorities concerned by the effects of implementing plan or programme laid down in par.(1) shall draw up and transmit a written detailed and motivated opinion on the proposed draft plan or programme and on the

environmental report, to the competent authority for the environmental protection, within 45 calendar days from the date of receiving the draft plan or programme and environmental report.

Art. 23 – (1) At 45 calendar days from the deadline provided for in art.22 par.(1), the plan or programme owner must organize the public debate of the draft plan or programme and of the environmental report, according to art.31.

(2) When the implementation of the proposed plan or programme may have significant transboundary effects, the plan or programme owner, at 60 calendar days from the deadline specified in art. 22 para (3), must organize the public debate on the proposed draft plan or program and the environmental report, according the art. 31.

Art. 24 - (1) In order to review the quality of the environmental report and to ensure the compliance with the provisions of the present decision, the environmental competent authority shall take into account the received points of view of all the others authorities, according to art. 22 par (3) and may employ consultancy.

(2) In order to accomplish the tasks foreseen in par (1), the competent authorities for environmental protection shall also analyze the results of the public consultations up to date, their integration in the environmental report, and the results of the consultation foreseen in the art. 34, as appropriate.

(3)In its review of the environmental report, the competent authority for environmental protection shall consider the following elements in order to assure its quality:

a) the compliance with the framework-content foreseen in Annex 2;

b) the presentation of the technical, procedural or others difficulties, that have been met and the explanation of the uncertainties and hypotheses;

c) the presentation of the studied alternatives, the reasons for choosing one of them, how the environmental consideration have been integrated into the draft plan or programme, as well as the finalizing process of the draft as a result of the information obtain during the environmental assessment;

d) detailed justification of the reasons for not taking into consideration certain aspects within the assessment;

e) taking into account the aspects encountered during the consultation process with the others authorities and the public;

f) a graphical presentation of the information - maps, schemes, sketches and diagrams;

g) the existence of a monitoring program.

(4) In case when the environmental report is incomplete or does not have a sufficient quality in order to ensure the compliance with the provisions of the present GD, the competent authority for environmental protection decides and communicates, in writing, the necessary rectification of the environmental report.

Art. 25 - (1) The competent authorities for environmental protection shall take the decision to issue the environmental approval in 15 calendar days from the public debate.

(3) If the schedule set up for the transboundary consultations exceeds the deadline foreseen in par.(1), the decision to issue the environmental approval shall be taken in 15 calendar days from the date of the end of transboundary consultations.

(3) The competent authorities for environmental protection shall inform the owner, in writing, about the decision to issue the environmental approval, which will be displayed on the own web site, in 3 calendar days from the date of decision taken.

(4) The decision foreseen in par. (3) is materialized in the environmental approval, which includes:

a) the reasons on which it was issued, according to the art. 24;

b) the monitoring measures regarding the environmental effects, according to art. 27, including additional monitoring measures, if needed;

c) the mitigation or offset measures of the significant effects on the environment and of the significant transboundary effects, as appropriate.

(5) The draft plan or programme, as approved by the competent authority for environmental protection, shall be made available, at request, at headquarter of the competent authority for environmental protection.

(6) If the environmental report or the public comments underline a likely significant adverse environmental impact, the competent authority for environmental protection decides, motivates and communicates in writing the necessary rectification of the plan or programme, in order to prevent, reduce and offset the significant environmental adverse effects.

Art. 26 – The plan or program owner must submit to the adoption procedure only the plan or program, as well as any modification to the plan or programme as approved by the competent authority for environmental protection.

Art. 27 – (1) The monitoring of the implementation of the plan or programme, based on the owner's proposed programme, envisage from the start to identify the significant environmental effects, as well as the adverse unforeseen effects in order to be able to take the appropriated remedial measures.

(2) The environmental effects monitoring program is attached to the documentation submitted to the competent authority for environmental protection in order to obtain the environmental approval and is integrated in the environmental approval.

(3) The accomplishment of the monitoring program is the responsibility of the plan or program owner. The owner must submit annually the results of the monitoring programme to the competent authority for environmental protection that released the environmental approval, by the end of the first quarter of the following year of the monitoring.

(4) The competent authority for environmental protection reviews the monitoring program results received from the owner and informs the public by displaying on its web page.

(5) Monitoring foreseen to par (1) may also be done, as appropriate, using the data, programmes and existing monitoring equipments, with the view to avoid duplication.

Section 4

Public information and participation to the environmental assessment procedure

Art. 28. – (1) The competent authorities for environmental protection ensure the public information and participation to the environmental assessment procedure, by the following actions:

a) public identification, including the public affected or likely to be affected or the public that has an interest in the decision-making process regulated by the provisions of this Governmental Decision, including the relevant non-governmental organizations – those that are promoting environmental protection and other organizations concerned;

b) establishing the places where the available information may be consulted;

c) establishing the public information modalities, such as: bill posting within a certain radius, public announcements on local newspaper, displaying announcements on the web sites, exhibitions with plans, sketches, tables, graphs and others such modalities;

- d) selection of public consultation modality, such as: written information, public debates, electronic means and other such modalities;
- e) establishing a reasonable time-frame that may allow public participation to the procedure stages;
- f) informing on the possibility that the plan or program is subject of an transboundary environmental assessment procedure.

(2) The costs of public information in newspaper and public participation to the environmental assessment process during the issuing of the environmental approval procedure for plans and programmes are borne by the owner of the plan or programme.

(3) The plan or programme owner must prove the publishing of all newspaper announcements required by this procedure.

(4) The competent authorities for environmental protection shall make available to the public, at request, relevant documents for the considered plan or programme, others than those made available by the plan or programme owner, as appropriate.

Art. 29. –(1) The responsibility of public involvement in the screening stage belongs both to the competent authority for environmental protection and to the plan or programme owner, according to art. 9-12.

(2) During the screening stage, the plan or programme owner publishes in the newspaper, 2 times at 3 calendar days interval, and announces on its web site that the first version of plan and programme has been drawn up, its type, starting of the screening stage, the place and schedule for the public consultation and the possibility to send written comments and opinions in 15 calendar days from the last announcement.

(3) During the screening stage, the competent authority for environmental protection displays on its web site the decision of this stage and the possibility for public to send written proposals for its reappraisal, in 10 calendar days from the displaying, to the competent authority for environmental protection. The final decision is made available to the public by displaying on the web site of the competent authority for environmental protection.

(4). The initial and the final screening decision are made available to the public by the plan or programme owner in newspaper in 3 calendar days from the decision-making day.

Art. 30 – (1) The responsibility of public involvement in finalizing the draft plan or programme and drawing up of the environmental report stage belongs to the plan or program owner, according to art. 21.

(2) The plan or program owner publishes in newspaper, 2 times at 3 calendar days interval, and displays on its web page the availability of the draft plan or programme, the finalizing of the environmental report, the place and the their consultations schedule and also that the public can submit written comments to the owner's and to the competent authority for environmental protection headquarter in 45 calendar days from the last announcement.

Article 31 – (1) The plan or programme owner must publish in newspaper 2 times at a 3 days interval and displays on its own web site the organization of a public debate on the proposed draft plan or programme, including the environmental report with at least 45 calendar days before the date of the debate, or 60 calendar days, when the implementation of the plan or programme may have significant transboundary effects.

(2) The public announcement contains:

- a) the place, day and hour of the public debate;
- b) the authorities concerned;

c) the fact that the debate it is opened for the public and the authorities from the potential affected states when the implementation of the plan or programme may have significant transboundary effects..

(3) The plan or programme owner must invite to the public debate the competent authorities for environmental protection, for health, as well as those involved in the screening stage.

(4) 70 calendar days before the public debate, the plan or programme owner must invite to the public debate, by means of the promoting central public authority, the competent environmental protection authorities and the health authorities from the potentially affected states, as well as the affected or potentially affected public of these states or the public having an interest in the decisions-making process regulated by this Governmental Decision, according to article 34.

(5) The competent authority for environmental protection has the responsibility to lead the public debate, to register the justified proposals from the public and from the authorities stipulated at par (3) and (4) and to elaborate the debate minute.

Art. 32 – The plan or programme owner must publish in newspaper the decision on the issuing of the environmental approval, in 5 calendar days from the date of its displaying on the web site by the competent authority for environmental protection.

Art. 33 – (1) The plan or programme owner must inform the authorities consulted during the procedure, the potentially affected public and states, and to make available for them the following:

a) the plan or programme as adopted ;

b) a statement on how the environmental considerations have been integrated in the plan or programme, and how the environmental report have been prepared according to article 19 and 20, the opinions expressed by the public and by other authorities and, as appropriate, how the results of transboundary consultations foreseen in article 34 have been considered in the decision-making process according to article 25, the reasons for choosing the approved alternative of plan or programme compared to other presented alternatives;

c) the foreseen monitoring measures of the environmental effects.

(2) The plan or programme owner shall announce the place and schedule for consulting the documents specified at par (1), in newspaper and on its own web site.

(3) The central public authority promoting the plan or programme shall supply the documents specified at par. (1) to the central environmental authority from the potentially affected states, within the framework of bilateral relationships.

Section 5

Environmental Assessment of Plans and Programmes, with Potential Significant Environmental Impact in Transboundary Context

Article 34 – (1) When a plan or programme might have significant impact on the environment of another state or when a potentially significantly affected state requires information about the plan or programme, the central public authority promoting the plan or programme transmits to the central environmental authority from that state a copy of the draft plan or programme and one of the environmental report, including the monitoring program of environmental effects before the plan or programme is adopted or submitted to a legislative procedure, within the framework of bilateral relationships.

(2) If the state receiving the documents mentioned at paragraph (1) notifies about its intention to start consultations before the adoption of the plan or programme or before its submission to

legislative procedure, the central public authority promoting the plan or programme, within the framework of bilateral relationships, will make the arrangements for consultations regarding the possible transboundary environmental effects of the implementation of the plan or programme and regarding the considered measures to mitigate or offset these effects. These arrangements must ensure the followings:

- a) informing the authorities involved in environmental assessment procedure from the potentially significantly affected state and, through them, informing the public concerned from that state;
- b) participation of the central public environmental protection authority from the state of origin of the proposed plan or programme;
- c) a time frame for consultations established on a common agreement between the interested parties.

(3) The central public authority promoting the plan or programme shall notify any state that has been consulted about the decision to issue the environmental approval, according to the provisions of this article.

(4) The Ministry of Foreign Affairs supports the central public authority promoting the plan or programme according to the provisions of par. (1) – (3) and makes the necessary steps to apply these provisions, including the case of plans or programmes with potential significant impact on Romanian territory, initiated in other states.

Chapter IV

Sanctions

Article 35 – (1) The infringements of the following provisions represents minor offences:

- a) the obligation of the plan or programme owner concerning the set up of the working group stipulated at article 14 paragraph (3);
- b) the obligation of the plan or programme owner to submit to adoption procedure only the approved plan or programme, stipulated at article 26;
- c) the obligation of the plan or programme owner to respect the provisions of the environmental approval mentioned at article 25 paragraph (4);
- d) the obligations of the plan or programme owner to inform and consult the public, stipulated at art 9 par (1), art.12 par. (1) and (3), art.21 par (1), art.23, art. 29 par. (2), art. 30 par. (2), art.31 and art.32.
- e) the obligations of competent authority for environmental protection to inform the public, stipulated at art.12 par. (1) and (3), art. 25, art.27 par. (4).

(2) The offences mentioned at paragraph (1) are sanctioned as it follows:

- a) those stipulated at a), d) and e) – with fine from 50,000,000 lei up to 100,000,000 lei;
- b) those stipulated at b) and c) – with fine from 400,000,000 lei up to 500,000,000 lei.

Art.36– (1) The authorized personnel of the central environmental public authority is in charge with identifying the offences and applying the fines stipulated at article 35 .

(2) This Governmental Decision is completed by the provisions of Government Ordinance no. 2/2001 concerning the legal statute of the minor offences, approved with amendments and completed by Law no. 180/2002, later amended.

Chapter V

Final and transitory statements

Art.37 – When the owner of the plan or programme does not provide to the competent authority for environmental protection all the necessary information for the issuing of the environmental approval within 1 year from the date they have been requested, the submitted documentation will not be taken into consideration. For the issuing of the environmental approval, the environmental assessment procedure is taken from the beginning.

Art. 38 – For the plans or programmes under their regulation competence, the central public environmental protection authority and Regional Environmental Protection Agencies may delegate the National Environmental Protection Agency or the local environmental protection agencies, as appropriate, to assume some stages of this procedure. The issuing of environmental approval cannot be subject of competences delegation.

Art. 39 – (1) The environmental assessment carried out for plans and projects according to the provisions set in this Governmental Decision does not exclude the implementation of environmental impact assessment procedure stipulated for projects, according to the legislation in force.

(2) For the plans and programmes co-financed by European Community environmental assessment established by this Governmental Decision shall be done according to specific provisions of national legislation transposing the Community relevant legislation, as well as the specific provisions from the relevant community legislation.

(3) The current procedure is also applied for the plans and the programmes for which the obligation to carry out an environmental assessment arises from this Governmental Decision, other legislative acts transposing the *acquis communautaire* and from other community legislation .

Art.40. – (1) The central public authority for environmental protection and the EC shall exchange information on the experience gained in implementing the provisions of this GD, starting with the acceding date.

(2) The central public authority for environmental protection shall transmit to the EC any measure taken regarding the quality of the environmental report, starting with the acceding date.

Article 41 – The Annexes 1–1 are integral part from the present Governmental Decision.

Art. 42 –(1) The present Governmental Decision will enter into force at 120 days after its publication in Romanian Official Journal, Part I, exempt the provision of art.39 par.(2), last thesis and art.39 par.(3) last thesis, which enter into force at the acceding date.

(2) The plans submitted to the competent authority for environmental protection before the entry into force of this decision, for obtaining the environmental approval and subjected to the environmental impact assessment procedure, are subject to the procedure in force at the moment of the submission.

(3) The plans and programmes of which the first draft is before the entry into force of this decision and which are send for environmental approval to the competent authority for environmental protection by 31.03 2006 are subject to the procedure in force in the moment of their elaboration.

(4) The plans and programmes of which the first version is before the entry into force of this decision and are adopted or submitted to the legislative procedure after 21.07.2006, are subject to the provisions of this decision, unless the competent authority for environmental protection decides, on a case by case examination, that the environmental assessment procedure for plans and programmes is not feasible. The decision is made available to the public.

Article 43 – When the present decision enters into force, there are repealed:

a) Ministerial Order no.125/96 on the approval of regulating procedure for economic and social activities with environmental impact, published in Romanian Official Journal Part I, No.73 from 11 April 1996, with subsequent amendments;

b) Joint Ministerial Order No. 214/R.T.-16/N.N./1999 on the approval of the documentations promotion procedure and on issuing the environmental agreements for urban and territorial, published in Romanian Official Journal, Part I, No.187 from 30 April 1999;

c) any other contradictory provisions

Art.44 – The present GD transposes in the national legislation the provisions of Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001, on the assessment of the effects of certain plans and programmes on the environment.

ANNEX 1 Criteria for determining the likely significance of effects referred to in Article 11

1. The characteristics of plans and programmes, having regard to:

- a) the degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources,
- b) the degree to which the plan or programme influences other plans and programmes including those in a hierarchy,
- c) the relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development,
- d) environmental problems relevant to the plan or programme,
- e) the relevance of the plan or programme for the implementation of national and Community legislation on the environment (e.g. plans and programmes linked to waste-management or water protection).

2. Characteristics of the effects and of the area likely to be affected, having regard, in particular, to

- a) the probability, duration, frequency and reversibility of the effects,
- b) the cumulative nature of the effects,
- c) the transboundary nature of the effects,
- d) the risks to human health or the environment (e.g. due to accidents),
- e) the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected),
- f) the value and vulnerability of the area likely to be affected due to:
 - g) special natural characteristics or cultural heritage,
 - h) exceeded environmental quality standards or limit values,
 - j) intensive land-use,
- k) the effects on areas or landscapes which have a recognised national, Community or international protection status.

The framework content of the environmental report

The information that must be provided according to art.19 par.4 are as follows:

- (a) an outline of the contents, main objectives of the plan or programme and relationship with other relevant plans and programmes;
- (b) the relevant aspects of the current state of the environment and the likely evolution thereof without implementation of the plan or programme;
- (c) the environmental characteristics of areas likely to be significantly affected;
- (d) any existing environmental problems which are relevant to the plan or programme including, in particular, those relating to any areas of a particular environmental importance, such as areas designated pursuant to the GDO 236/2000 on the regim of the natural protected area, conservation of natural habitats, of wild flora and fauna, approved by Law 462/2001 ;
- (e) the environmental protection objectives, established at international, Community or national level, which are relevant to the plan or programme and the way those objectives and any environmental considerations have been taken into account during its preparation;
- (f) the likely significant effects¹ on the environment, including on issues such as biodiversity, population, human health, fauna, flora, soil, water, air, climatic factors, material assets, cultural heritage including architectural and archaeological heritage, landscape and the interrelationship between the above factors;
- (g) the measures envisaged to prevent, reduce and as fully as possible offset any significant adverse effects on the environment of implementing the plan or programme;
- (h) an outline of the reasons for selecting the alternatives dealt with, and a description of how the assessment was undertaken including any difficulties (such as technical deficiencies or lack of know-how) encountered in compiling the required information;
- (i) a description of the measures envisaged concerning monitoring in accordance with Article 27;
- (j) a non-technical summary of the information provided under the above headings.

¹ These effects should include secondary, cumulative, synergistic, short, medium and long-term permanent and temporary, positive and negative effects.

MINISTRY OF ENVIRONMENT
AND WATER MANAGEMENT
Secretary of State

Approved,

.....

(for the ministry)

The Regional Agency for Environmental Protection

.....

Environmental Approval

No...../(date).....

As a follow up of the notification received from.....

.....

having the headqurtes in.....

region/county.....town

sector.....str.....no....., registered under no...../date.....

Following the analisys and verifing of the transmitted documentation,

Following the application of the procedural stages,

an based on the GD no.408/2004 on organization and functioning of the Ministry of Environment and Water Management and of the Environmental Protectia Law no137/1995, republished, with the additional amendmets and completions, is issued:

THE APPROVAL

For:.....

Endorsed by.....

In order to adopt/aprove the plan/programme.....

under the following conditions.....

(it will be written down the mitigation or offset measures of the any significant environmental effects, proposed by the owner of the plan or programme in the monitorig programme, including additional monitoring measures, as appropriate, as well as mitigation and offset measures for any significant transboundary effects, as appropriate).

.....
.....
The issuing of the environmental approval is based on the following:.....

(it will be written down how the environmental consideration have been integrated in the plan or programme, how the environmental issues have been solve in the environmental report, how the public and other authorities opinion has been taken into consideration, the grounds for choosing one of the alternatives of the plan or programme and as well as the results of the transboundary consultations, if appropriate);

The present approval is valid from the issuing date, for the whole validity period of the plan or programme....., if no modification of the plan or programme occur.

The infringement of the provisions of this approval represents minor offences and is punished according to the law in force.

Director,
.....

Head of
Regulation Office
.....

Drawn up by
.....

ANNEX no 4: Tariffs applied for carrying out the assessment procedure

No. crt.	Stage	Tariff - lei -
1.	Screening	1.500.000
2.	Review the quality of environmental report	
	- for local plan	2.000.000
	- for county plan	3.000.000
	-for regional plan	4.000.000
	- for national plan	5.000.000