

Key Principles for EIA Procedure in Ukraine

Training Workshop on the Practical Application of Transboundary Environmental Impact Assessment (EIA):
Bilateral Agreements on Transboundary EIA
16-17 March 2021

Action implemented by:

Legal nature and scope of the bilateral agreement between Ukraine and Romania

Legal framework

- Law on EIA of 2017 (Art.14)
- "The Procedure for making a decision to carry out the transboundary EIA", adopted by the Resolution of the CMU from 23 September 2020, # 877
- "On establishment the Interagency Coordination Council on the Implementation in Ukraine of the Espoo Convention", adopted by the Resolution of the CMU from 2 April 2008 #295

Nature and scope of the bilateral agreement:

- Agreement between the Government of Romania and the CMU of Ukraine on the implementation of the Convention on Environmental Impact Assessment in a Transboundary Context
- Binding nature

Action implemented by:



Main Elements of the Agreement

- Definitions
- Scope of activities and approach to trigger transboundary procedure
- Notification
- Transmittal of information
- EIA documentation
- Public participation
- Consultations between the Parties
- Final decision
- Post-project analysis
- Joint commission on EIA in a transboundary context

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Scope of activities and approach to trigger transboundary procedure

1. The Agreement shall apply to a proposed activity listed in Annex I of the Convention which is likely to cause significant adverse transboundary impact.
2. The Agreement applies to any other proposed activity under the national EIA procedure of the Party of origin, if the activity is likely to cause significant adverse transboundary impact according to Annex III.

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Public participation

Language of communication and responsibilities

- All correspondence between Parties concerning environmental impact assessment conducted under this Agreement and the Espoo Convention shall be in English including comments from the authorities and the public of the affected Party on the environmental impact assessment documentation.
- All correspondence concerning environmental impact assessment in a transboundary context conducted under this Agreement and the Espoo Convention may take place via email, through the Points of Contact of the Parties regarding notifications, as listed on the website of the Espoo Convention.
- The EIA documentation submitted to the competent authority of the affected Party for comments shall be translated into English, the content and the Non-technical summary of the EIA shall be translated to national language of the affected Party.
- When organizing public hearings where the public of the affected Party can reasonably participate, the Party of origin has the responsibility of providing interpretation into national language of the affected Party.
- The affected Party has the responsibility of providing the venue for organizing public hearings on its territory.

Action implemented by:



Public participation

Informing the public of the affected Party

- The affected Party shall notify its own public about public consultations according to the national legislation.
- The competent authority of the affected Party shall also ensure that the authorities and the public in the areas likely to be affected are provided with possibilities to comment on the proposed activity, and it shall arrange for transmittal of these comments to the competent authority of the Party of origin

Action implemented by:

Time frames and the final decision

Notification

- The Party of origin shall prepare and send to the affected Party the notification, no later than informing its own public about that proposed activity.
- The affected Party shall indicate, within 30 calendar days from the receipt of the notification from the Party of origin, its intention to participate in the environmental impact assessment procedure and within the same timeframe the affected may provide its views on the content of such documentation.

Action implemented by:

Time frames and the final decision

Comments

- The environmental impact assessment report shall be sent to the affected Party after it is submitted to the competent authority by the Developer.
- Organizing public hearings on the territory of the affected Party as well as consultations shall be done in no more than 45 days from the date of receipt of the documentation.
- The duration and the mode of the consultations is defined by the affected Party and the Party of origin at the first meeting and shall not exceed 30 working days.

Action implemented by:

Time frames and the final decision

Final Decision

- The Parties shall ensure that, in the decision on the proposed activity, due account is taken of the outcome of the EIA, including the EIA documentation.
- The competent authority of the Party of origin shall provide to the competent authority of the affected Party the decision on the proposed activity along with the reasons and considerations on which it was based.
- The competent authority of the Party of origin shall publish information on the final decision on its official website on the Internet.

Action implemented by:

Post-project analysis and other elements

Post-project analysis

- The competent authorities of the Parties, at the request of the competent authority of the other Party, shall determine whether, and if so to what extent, a post-project analysis shall be carried out.
- Any post-project analysis undertaken shall include, in particular, the surveillance of the activity and the determination of any adverse transboundary impact.
- When competent authority of the affected Party has reasonable grounds for concluding that there is a significant adverse transboundary impact it shall immediately inform the competent authority of the other Party. The competent authorities of the Parties shall then consult on necessary measures to reduce or eliminate the impact.

Action implemented by:

Post-project analysis and other elements

Joint commission on EIA in a transboundary context and its tasks

- a) to oversee and review the implementation of this Agreement;
- b) to make proposals for the promotion and development of this Agreement;
- c) to establish, where appropriate working groups for overseeing and following up transboundary EIA's in individual cases, or for other purposes under this Agreement;
- d) to consider the necessity for and to propose to the competent authorities of the Parties possible activities for joint EIAs;
- e) to consider and propose possible post-project analyses to the competent authorities of the Parties;
- f) to perform other tasks as required under this Agreement

Action implemented by:

Completion of the bilateral agreement

- The Agreement is concluded for an indefinite period and it shall enter into force of the date of receipt through diplomatic channels of the last written notification by which Parties inform each other of the completion of their internal procedures necessary for the entry into force of this Agreement.
- Each Party may denounce this Agreement by written notification to the other Party. The Agreement shall be terminated six months after the date of receipt through diplomatic channels of the denunciation notification.
- The Agreement shall be terminated on the date the Espoo Convention ceases to be in force for Romania or Ukraine.

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