



EIA Procedure for Transboundary Projects

29 May 2024

***European Commission, DG Environment
Environmental Rule of Law & Governance Unit***

Background

- **EIA of transboundary projects** carried for many years.
- **Most common situation - two countries** - one where the project is situated and another on whose territory it may cause significant environmental effects.
- However, more **large-scale projects physically located in more than two country** (mainly large-scale infrastructure projects, e.g. roads, pipelines, etc.) have been initiated/authorised.
- Such projects cover at least two countries, are likely to have **significant environmental effects** in each, and involve **many stakeholders** (national, regional and local authorities, NGOs, the public).
- The countries responsible for authorising such projects often have **different legal systems** and EIA procedures and some are neither EU Member States nor not parties to the Espoo Convention.
- The **environmental and socio-economic impacts** of transboundary projects **go beyond local, regional and national borders**. Multilateral cooperation is therefore usually required.

Definition for a large-scale transboundary project

Projects which are implemented in at least two Member States or having at least two Parties of Origin, and which are likely to cause significant effects on the environment or significant adverse transboundary impact

(based on Articles 2(1) and 4 of the EIA Directive and Article 2(3) and (5) of the Espoo Convention).

Guidance document

2013 - Guidance on
the Application of the
Environmental Impact
Assessment Procedure
for Large-scale
Transboundary
Projects



Steps in a transboundary EIA

1. Notification and transmittal of information
2. Determination of the content and extent of the matters of the EIA information
3. Preparation of the EIA information/report by the developer
4. Public participation, dissemination of information and consultation
5. Consultation between concerned Parties
6. Examination of the information gathered and final decision
7. Dissemination of information on the final decision

Step 1 – notification and transmittal of information

- Consult potentially affected Parties early on
- Always notify affected Parties if significant adverse transboundary effects cannot be excluded
- Notify affected Parties preferably before scoping
- Pay attention to the notification's format
- Parties of origin should notify each other
- Affected Parties should provide information on significant transboundary effects

Step 2 - determination of the content and extent of the matters of the EIA information

- Develop close cooperation between the developer and competent authorities
- Create a coordination body for the concerned Parties
- Identify significant adverse transboundary effects
- Set out the scope of a joint EIA report for the whole project

Step 3 - preparation of the EIA information/report by the developer

- Ensure overall assessment of the effects
- Consider impacts of associated works
- Assess reasonable alternatives
- Prepare a joint EIA report for the whole project
- Prepare a non-technical summary

Steps 4 and 5 – public participation and consultation

- Distribute tasks and responsibilities among the Parties
- Make information widely available
- Ensure accessibility of all documentation
- Allow reasonable amount of time for comments
- Ensure translation/interpretation if needed
- Use appropriate means of consultation (e.g. open discussions and public hearings)
- Ensure that the authorities and developer are present at the hearings

Step 6 - decision-making

- Take into account the overall significant effects
- Coordinate national consent procedures

Conclusions

- **International cooperation and coordination** - of particularly importance for large-scale transboundary projects.
- **Environmental report and non-technical summary** should assess the environmental impact of **entire project**.
- **Joint EIA documentation** should be prepared **before any national EIAs** are carried out.

Recent developments

- **Revised TEN-E Regulation (EU) 2022/869**
 - ✓ No derogations from applicable environmental assessments;
 - ✓ environmental law and any requirements under the Aarhus Convention, the Espoo Convention and relevant Union law apply;
 - ✓ Specific reference to projects likely to have a significant transboundary impact in one or more neighbouring Member States, to which Article 7 of Directive 2011/92/EU and the Espoo Convention apply.
- **Emergency Regulation (EU) 2022/2577**
 - ✓ Certain derogations from EIA subject to conditions;
 - ✓ Specific reference to Aarhus Convention; however, requirements deriving from international treaties (i.e. Espoo Convention, Alpine Convention) remain applicable.

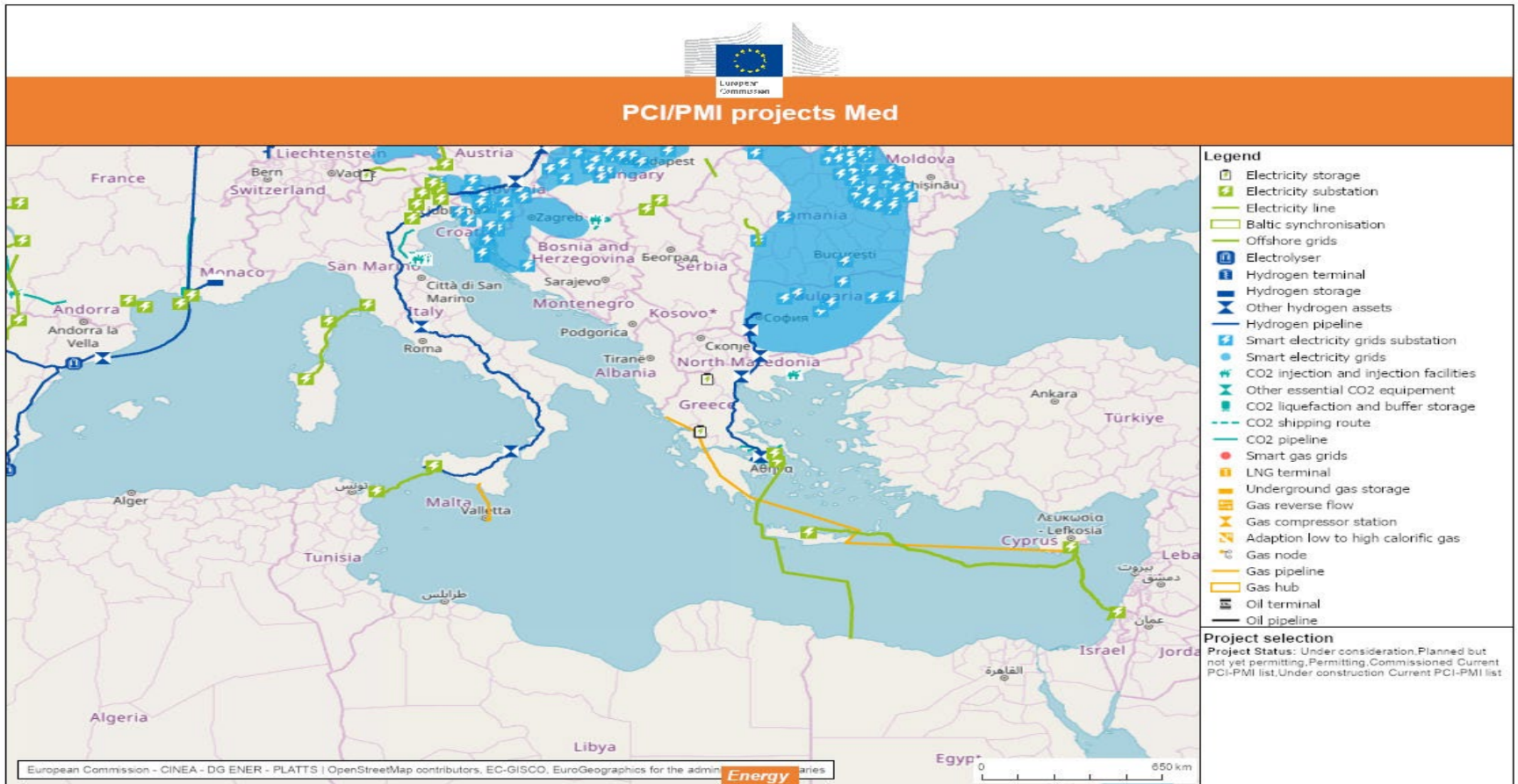
Recent developments - 2

- **Revised Renewable Energy Directive (EU) 2023/2413**
- ✓ Certain derogations from applicable environmental assessments (EIA/AA) subject to conditions;
- ✓ Derogations do not apply to projects which are likely to have significant effects on the environment pursuant to Article 7 of Directive 2011/92/EU;
- ✓ Obligations under the Espoo Convention remain applicable to Member States where the project is likely to cause a significant transboundary impact in a third country.

Recent developments - 3

- **Critical Raw Materials Act (Regulation (EU) 2024/1252)/ Net Zero Industry Act (publication expected in July)**
- ✓ No derogations from applicable environmental assessments;
- ✓ In both Acts specific provision on applicability of UNECE Conventions (Aarhus and Espoo Conventions) – both Regulations are without prejudice to the obligations under these Conventions.

TEN-E projects



TEN-T network





Thank you for your attention!

[Environmental assessments - European Commission \(europa.eu\)](http://europa.eu)