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Guidelines on Quality Control of EIA Documentation for the Republic of Moldova – Including Guidance for the Transboundary EIA process



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Guidelines
on Quality Control of EIA Documentation
for the Republic of Moldova –
Including Guidance for the Transboundary EIA process

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List of abbreviations

EIA	environmental impact assessment
EU	European Union
OG	Official Gazette
SEA	strategic environmental assessment
TC	Technical Commission
TEIA	transboundary environmental impact assessment
UNECE	United Nations Economic Commission for Europe

The term “*initiator*” defined in the Law on EIA of the Republic of Moldova (as amended) as “natural or legal person, including public and administrative-territorial units, seeking approval to carry out the planned activity” is used throughout these Guidelines.

INTRODUCTION

Background

Within the framework of the EU4Environment Programme (2019–2024), funded by the European Union, the United Nations Economic Commission for Europe (UNECE) is assisting the Eastern Partnership countries, including the Republic of Moldova (hereinafter Moldova), in finalizing legal reforms and comprehensive capacity-building for the application of strategic environmental assessment (SEA) and environmental impact assessment (EIA), including in a transboundary context.

One of the areas requiring further external assistance was identified by the Ministry of Environment of the Republic of Moldova as being the need for specific guidance on EIA quality control, with a focus on transboundary aspects as per the provisions of the Convention on Environmental Impact Assessment in a Transboundary Context (1991) ('the Espoo Convention'). This request was later modified to include general guidance on EIA quality control for reviewing EIA reports in line with the new national EIA legislation in force as of October 2023.

EIA is a procedure employed to assess the potentially significant effects of a project or a development proposal on the environment. It ensures that environmental concerns are considered from the beginning of new building or development projects or any changes or extensions that are planned to be made to them. It also provides opportunities for public engagement and thus helps to make the decision-making process transparent.

The Espoo Convention, which came into force in 1997, requires its Parties to carry out an EIA across their borders when any proposed activity may cause a significant adverse transboundary impact. Moldova ratified the Convention in 1994. The practical implementation of the Convention envisages the development and coordination of domestic and inter-State procedures among all stakeholders in the transboundary EIA process.

Purpose of the Guidelines

The *Guidelines* have been prepared in cooperation with the Ministry of Environment and other national authorities in order to support the practical application of the existing EIA-related legal framework (national and international) and to complement existing guidance documents. These include the Guideline for the execution of the procedures of environmental impact assessment, published in the Official Gazette of the Republic of Moldova No. 86-92 of 8 March 2019 and approved through Order No. 1 of 4 January 2019 of the Ministry of Agriculture, Regional Development and Environment.

The *Guidelines* contain two autonomous sections:

1. **Quality assessment of the report.** Guidance on evaluating the quality of the EIA report, including a generic EIA quality control checklist to identify and address potential deficiencies in submitted EIA reports.



2. **Application of EIA in a transboundary context.** Guidance on implementing key EIA procedural steps in a transboundary context, including references to relevant international standards, a summary of the steps and actions required from key stakeholders, and practical advice on the application of the legal provisions and meeting typical challenges such as:
- communication with the initiator (developer)¹ preparing a planned activity with potential transboundary impacts.
 - conducting analyses and gathering environmental data in a transboundary context (including communication and consultation with relevant environmental authorities in the likely affected Party)
 - public consultations in a transboundary context (with the involvement of citizens)
 - transboundary consultations among concerned Parties (between government and State representatives)

The *Guidelines* are designed to assist the staff of the EIA competent authority (Environmental Agency and the Ministry of Environment) in carrying out and supervising the EIA processes and performing the EIA report quality assessment in line with the provisions of article 10⁴ (Analysis of the EIA report Quality) of Law 86/2014 on EIA, including in cases where the EIA is taking place in a transboundary context, i.e. involving the process of transboundary consultations.

¹ The term “initiator” is used throughout these Guidelines instead of the often used (and for all practical purposes equivalent) term “developer” in order to ensure consistency with the terminology established by the Law on EIA (as amended). The Law on EIA (amended in 2022 and in force since 2023) defines the “initiator” as “natural or legal person, including public and administrative-territorial units, seeking approval to carry out the planned activity”.

1. QUALITY ASSESSMENT OF THE EIA REPORT

The task of the EIA report quality control is according to Law 86/2014 on EIA entrusted to a Technical Commission established through the internal order of the Minister of Environment. This Commission must develop a detailed and justified opinion on the quality of the EIA report. To perform this task effectively, it is recommended to carry out the quality control in two steps: a quick formal compliance check, and a substantial quality review.

1.1. Formal compliance check

The purpose of this step is to quickly establish whether the submitted EIA report has all the required components and that the submission or the previous EIA steps do not suffer from some formal flaw (e.g. a failure to establish whether there is a need for performing the Appropriate Assessment within the given EIA) compromising the whole EIA process and thus rendering the subsequent detailed quality review by the Technical Commission purposeless.

The Environmental Agency can perform the formal compliance check before the EIA report is duly distributed to all members of the Technical Commission. The following checklist can assist in completing the quick formal compliance check of a submitted EIA report.

Table 1. Checklist of report components (for formal compliance of EIA report)

EIA report components	Present/ satisfactorily covered
A. Compliance with the requirements under article 10² for the content of the report	
1. Description of the location of the planned activity and a description of the physical characteristics of all planned activities	
2. Description of the main characteristics of the operational phase of the proposed activity, in particular, the production processes (energy requirements and energy used, nature and quantity of materials and natural resources used)	
3. Indication, depending on the type and quantity, of potential residues and emissions	

EIA report components	Present/ satisfactorily covered
4. Description of the current state of the environment (baseline scenario) and a description of its likely development in the event that the proposed activity does not occur	
5. Description of reasonable alternatives (in terms of concept, technology, location, size, and scale of the proposed activity) studied by the initiator	
6. Description of the factors that may be affected by the proposed activity foreseen in art. 4 para. 1 of Law 86/2014 on EIA	
7. Description of the significant potential environmental impacts of the proposed activity	
8. Description or evidence of the predictive methods used to identify and assess significant environmental impacts, including details of the difficulties encountered	
9. Description of the measures envisaged to avoid, prevent, reduce, or possibly compensate for significant adverse environmental impacts	
10. Justification for the need to conduct or not to conduct a post-project analysis and a description, if necessary, of the proposed monitoring measures and the indicators	
11. Contact information for the experts involved in compiling the report and indication of their areas of expertise, the date of compilation of the report, a self-declaration of compliance with the qualification requirements, and their signatures	
12. Non-technical summary	
13. List of references indicating the sources used	
B. Compliance of the report with the environmental impact assessment programme	
Comments on compliance (e.g. consideration of alternatives, scope of assessment, applied methods)	
Other considerations (e.g. previous procedural omission)	
Comments (e.g. other reasons, if any, for outright rejection of the EIA report)	
C. Result of the formal compliance check	
Comments (e.g. reasons for rejections, request to complete minor omission)	Accepted for Technical Commission quality review X Returned for revisions

It is essential for the correctness and efficiency of the process that even the formal compliance check is carried out by competent staff of the Environmental Agency, i.e. person(s) with experience and understanding of the EIA logic and purpose. The formal compliance check should be able to filter out not only cases where, for example, some of the required components of the EIA report are clearly missing (e.g. "description of the measures envisaged to avoid, prevent, reduce or possibly compensate for significant adverse environmental impacts"), but also cases where even though the EIA report formally fully adheres to the legally required content, it clearly

lacks the substance (e.g. the EIA report contains a section with the description of the planned activity, but does not contain key relevant information).

The control of whether the focus of the assessment presented in the EIA report corresponds to the conclusions of the previous scoping process (i.e. with the respective EIA programme) must, on the other hand, be limited to identifying cases where the authors of the report clearly ignored one or more requirements of the given EIA programme. For example, if the programme specifically requested that air emission dispersion modelling results be included in the report, the authors failed to do so. If no such clear omission is identified, the complete evaluation of the compliance on the substantive level must be left for the review of the report by the Technical Commission.

Similarly, some clearly formal and easily mitigated deficiencies (e.g. missing list of references) should not (unless combined with other more important defects) be a reason for a formal rejection, and opportunity can be provided for the submitting entity (namely, the initiator) to make the respective corrections while the EIA report proceeds to a full review by the Technical Commission.

1.2. Substantial EIA report quality review

In addition to the content of the EIA report, the full substantial EIA report quality review carried out by the Technical Commission takes into account the content of the respective environmental assessment programme (i.e. results of the previous scoping), and comments and proposals received from the public concerned (including in a transboundary context where relevant).

Standardized criteria allowing for evaluation across multiple relevant dimensions are typically used for reviewing the EIA documentation, and several ready-made checklists for EIA report review are available from academic publications or various official sources. The checklist presented below in table 2 is based on the Guidance published by the European Commission in 2017, adopted for the Moldova context².

It is organized into seven sections, each of which contains numbered review questions:

- Description of the project
- Description of the environmental and social factors likely to be affected by the project
- Description of the likely significant effects of the project
- Consideration of alternatives
- Description of mitigating measures
- Description of monitoring measures
- Quality of presentation and non-technical summary.

The reviewer should decide for each review question whether the question is relevant to the specific project and disregard those that are not. At the end of each section of the checklist, a free space is provided for the reviewer to add additional questions/topics to address any specific project-related aspects not covered by the standard questions.

If a review question is considered relevant, the reviewer inspects the EIA materials and decides whether the particular information identified in the question is provided to the reviewer's satisfaction. The quality of the presented material should be judged not only in terms of scientific accuracy, compliance with applicable methodological standards (e.g. for calculating emissions or modelling noise impacts), or comprehensiveness of the analyses, but namely in terms of its sufficiency for decision-making (i.e. granting the permission for the implementation of the proposed project).

² European Commission, Directorate-General for Environment, J. McGuinn, Z. Lukacova, A. McNeill, et al., *Environmental impact assessment of projects: Guidance on the preparation of the environmental impact assessment report* (Directive 2011/92/EU as amended by 2014/52/EU), Publications Office, 2017 <https://data.europa.eu/doi/10.2779/41362>.

The reviewer enters “Yes” in Column 3 if the provided information is deemed adequate. Otherwise, he/she enters “No.” When deciding if the information is sufficient for decision-making, the reviewer should consider whether there are any missing parts in the information and whether these omissions are vital to the decision-making process. If they are not, then it may not be necessary to request further information, i.e. to return the EIA report for an improvement.

Table 2. EIA report review checklist (quality control aiding tool)

No.	Question	Relevant?	Adequately addressed?	What further information is needed?
SECTION 1. DESCRIPTION OF THE PROJECT				
Objectives and physical characteristics of the project				
1.1	Are the project’s objectives and the need for the project explained?			
1.2	Is the programme for the project’s implementation described, detailing the estimated length of time (e.g. expected start and finish dates) for construction, operation, and decommissioning? (this should include any phases of different activity within the main phases of the project, for example, construction and operation phases of a road or bridge construction)			
1.3	Have all of the project’s main characteristics (e.g. purpose, technology, capacity) been described?			
1.4	Has the location of each project component been identified, using maps, plans, and diagrams as necessary?			
1.5	Is the site layout (or sites) occupied by the project described? (Including ground levels, buildings, other physical structures, underground works, storage facilities, water features, planting, access corridors, and boundaries)			
1.6	For linear projects, have the route corridor, the vertical and horizontal alignment, and any tunnelling and earthworks been described?			
1.7	Have the activities involved in the construction of the project (including land-use requirements) all been described?			
1.8	Have the activities involved in the project’s operation (including land-use requirements and demolition works) all been described?			
1.9	Have the activities involved in decommissioning the project all been described? (e.g. closure, dismantling, demolition, clearance, site restoration, site re-use)			
1.10	Have any additional services required for the project been described? (e.g. transport access, water, sewerage, waste disposal, electricity, telecoms)			
1.11	Are any developments likely to occur as a consequence of the project identified? (e.g. new housing, roads, water, or sewerage infrastructure)			

No.	Question	Relevant?	Adequately addressed?	What further information is needed?
1.12	Have any existing activities that will alter or cease as a consequence of the project been identified?			
1.13	Have any other existing or planned developments with which the project could have cumulative impacts been identified?			
1.14	Has the 'whole project' been described? (e.g. including all associated/ancillary work)			
1.15	Are any activities described as part of the 'whole project' excluded from the assessment? Are such exclusions justified?			
Size of the project				
1.16	Is the land area occupied by each permanent project component quantified and shown on a scaled map? (including any associated access arrangements, landscaping, and ancillary facilities)			
1.17	Has the area of land required temporarily for construction been quantified and mapped?			
1.18	Is the reinstatement and after-use of the land occupied temporarily for the operation of the project described? (e.g. land used for mining or quarrying)			
1.19	Has the size of any structures or other works developed as part of the project been identified? (e.g. the floor area and height of buildings, the size of excavations, the area or height of planting, the height of structures such as embankments, bridges, or chimneys, the flow or depth of water)			
1.20	Has the form and appearance of any structures or other works developed as part of the project been described? (e.g. the type, finish, and colour of materials, the architectural design of buildings and structures, plant species, ground surfaces)			
1.21	For urban or similar development projects, have the numbers and other characteristics of new populations or business communities been described?			
1.22	For projects involving the displacement of people or businesses, have the numbers and other characteristics of those displaced been described?			
1.23	For new transport infrastructure or projects that generate substantial traffic flows, has the type, volume, temporal pattern, and geographical distribution of new traffic generated or diverted as a consequence of the project been described?			
Production processes and resources used				
1.24	Have all of the processes involved in operating the project been described? (e.g. manufacturing or engineering processes, primary raw material production, agricultural or forestry production methods, extraction processes)			

No.	Question	Relevant?	Adequately addressed?	What further information is needed?
1.25	Have the types and quantities of outputs produced by the project been described? (these could be primary or manufactured products, goods such as power or water, or services such as homes, transport, retailing, recreation, education, and municipal services (e.g. water, waste, sanitation))			
1.26	Have the types and quantities of resources, for example, natural resources (including water, land, soil, and biodiversity), raw materials, and energy needed for construction and operation, been described in the EIA report?			
1.27	Have the environmental implications of the sourcing of resources, for example natural resources (including water, land, soil, and biodiversity), raw materials, and energy, been described in the EIA report?			
1.28	Have efficiency and sustainability in using resources, for example natural resources (including water, land, soil, and biodiversity), raw materials, and energy, been discussed in the EIA report?			
1.29	Have any hazardous materials used, stored, handled, or produced by the project been identified and quantified? <ul style="list-style-type: none"> • during construction • during operation • during decommissioning 			
1.30	Has the transportation of resources, including natural resources (including water, land, soil, and biodiversity) and raw materials to the project site, and the number of traffic movements involved, been discussed in the EIA report? (including road, rail, and other transport) <ul style="list-style-type: none"> • during construction • during operation • during decommissioning 			
1.31	Have the project's environmentally relevant social and socioeconomic implications been discussed? For instance, will employment be created or lost due to the project? <ul style="list-style-type: none"> • during construction • during operation • during decommissioning 			
1.32	Have the access arrangements and the number of traffic movements involved in bringing workers and visitors to the project been estimated? <ul style="list-style-type: none"> • during construction • during operation • during decommissioning 			
1.33	Has the housing and provision of services for any temporary or permanent employees for the project been discussed? (this is relevant for projects that require the migration of a substantial, new workforce into the area, either for construction or in the long term)			

No.	Question	Relevant?	Adequately addressed?	What further information is needed?
Residues and emissions				
1.34	Have the types and quantities of solid waste generated by the project been identified? (including construction or demolition wastes, surplus spoil, process wastes, by-products, surplus or reject products, hazardous wastes, household or commercial wastes, agricultural or forestry wastes, site clean-up wastes, mining wastes, decommissioning wastes) <ul style="list-style-type: none"> • during construction • during operation • during decommissioning 			
1.35	Have the composition and toxicity, or other hazards from all solid wastes produced by the project, been described?			
1.36	Have the methods for collecting, storing, treating, transporting, and finally disposing of these solid wastes been described?			
1.37	Have the locations for the final disposal of all solid wastes been described in consideration with the Waste Management Plan(s) concerned (if any are available)?			
1.38	Have the types and quantities of liquid effluents generated by the project been identified? (including site drainage and run-off, process wastes, cooling water, treated effluents, and sewage) <ul style="list-style-type: none"> • during construction • during operation • during decommissioning 			
1.39	Have the composition, toxicity, or other hazards of all liquid effluents produced by the planned activity been described?			
1.40	Have the methods for collecting, storing, treating, transporting, and finally disposing these liquid effluents been described?			
1.41	Have the locations for the final disposal of all liquid effluents been described?			
1.42	Have the types and quantities of gaseous and particulate emissions generated by the project been identified? (including process emissions, fugitive emissions, emissions from combustion of fossil fuels in the stationary and mobile plant, emissions from traffic, dust from materials handling, and odours) <ul style="list-style-type: none"> • during construction • during operation • during decommissioning 			
1.43	Have the composition and toxicity or other hazards of all the emissions to the air produced by the project been described?			
1.44	Have the methods for collecting, treating, and finally discharging these emissions into the air been described?			

No.	Question	Relevant?	Adequately addressed?	What further information is needed?
1.45	Have the locations for discharge of all emissions to the air been identified, and have the characteristics of the discharges been identified? (e.g. the height of stack, velocity, and temperature of release)			
1.46	Have the methods for capturing, treating, and storing these emissions been described?			
1.47	Have the locations for the storage of all emissions identified and the characteristics of the storage unit been identified? (e.g. type of storage unit, storing capacity, methods used)			
1.48	Has the potential for resource recovery from wastes and residues been described? (including re-use, recycling, or energy recovery from solid waste and liquid effluents)			
1.49	Have any noise, heat, light, or electromagnetic radiation sources from the project been identified and quantified? (including, for example, equipment, processes, construction works, traffic, lighting)			
1.50	Have the methods for estimating the quantities and composition of all residues, the emissions identified, and any difficulties described?			
1.51	Has the uncertainty attached to estimates of residues and emissions been described?			
Risks of accidents and hazards				
1.52	Have any of the risks associated with the project been addressed? <ul style="list-style-type: none"> • risks from handling hazardous materials • risks from spills, fire, and explosion • risks of traffic accidents • risks from breakdown or failure of processes or facilities • risks from exposure of the project to natural disasters (e.g. earthquake, flood, landslide) 			
1.53	Have the measures to prevent and respond to accidents and abnormal events been described? (e.g. preventive measures, training, contingency plans, emergency plans, early-warning systems)			
1.54	Is there a plan in place detailing the preparedness for an emergency?			
1.55	Is this plan in line with the national laws of Moldova (including the provisions transposing the relevant EU regulation (if applicable), in particular the Seveso Directive (Directive 2012/18/EU on the control of significant accident hazards involving dangerous substances)?			
Other questions on the description of the project				

No.	Question	Relevant?	Adequately addressed?	What further information is needed?
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SECTION 2. DESCRIPTION OF ENVIRONMENTAL AND SOCIAL FACTORS LIKELY TO BE AFFECTED BY THE PROJECT

Baseline: aspects of the natural and social environment				
2.1	Have the existing land uses on the ground to be occupied by the project and the surrounding area described, and are any people living on or using the land been identified? (including residential, commercial, industrial, agricultural, recreational, and amenity land uses and any buildings, structures, or other property)			
2.2	Have the topography, geology, and soils of the land to be occupied by the project and the surrounding area been described?			
2.3	Have any significant features of the topography or geology of the area been described, and are the conditions and use of soils been described? (including soil quality stability and erosion, agricultural use, and agricultural land quality)			
2.4	Has the biodiversity of the land/water to be affected by the project and the surrounding area been described and illustrated on appropriate maps?			
2.5	Have the species (including their populations and habitats) and the habitat types that may be affected by the project been described? (Particular attention should be paid to any species and habitats protected under the national legislation and the relevant international regulations, such as the Bern Convention (Emerald sites))			
2.6	Have the protected areas / Emerald sites that may be affected by the project been described? Has the need for the appropriate assessment (biodiversity assessment) as per article 10 ⁷ of Law 86/2014 on EIA appropriately been established?			
2.7	Has the water environment of the area been described? (including reference to any river basin management plans/ programme of measures under the national laws, running and static surface waters, groundwaters, runoff, and drainage. (Not relevant if the water environment will not be affected by the project)			
2.8	Have the hydrology, water quality, and use of any water resources that may be affected by the project been described? (including any river basin management plans/programme of measures for use for water supply, fisheries, angling, bathing, amenity, navigation, and effluent disposal)			
2.9	Have local climatic and meteorological conditions in the area been described?			
2.10	Has existing air quality in the area been described, including, where relevant, limit values set out by national regulation? (Not applicable if the ambient air will not be affected by the project)			

No.	Question	Relevant?	Adequately addressed?	What further information is needed?
2.11	Have the existing noise conditions been described, including, where relevant, reference to noise maps and action plans set out by the national regulations? (Not applicable if the acoustic environment will not be affected by the project)			
2.12	Has the existing situation regarding light, heat, and electromagnetic radiation been described? (Not relevant if these characteristics of the environment will not be affected by the project)			
2.13	Have any material assets in the area that may be affected by the project been described? (including buildings, other structures, mineral resources, and water resources)			
2.14	Have any locations or features of archaeological, historical, architectural, or other community or cultural importance in the area that may be affected by the project been described, including any designated or protected sites?			
2.15	Has the landscape or townscape of the area that may be affected by the project been described, including any designated or protected landscapes and any important views or viewpoints?			
2.16	Have the area's demographic, social, and socioeconomic conditions (e.g. employment) been described?			
2.17	Have any future changes in any of the above aspects of the environment that may occur in the absence of the project been described?			
Data collection and methods				
2.18	Has the study area been defined widely enough to include all areas likely to be significantly affected by the project?			
2.19	Have all relevant national and local authorities been contacted to collect information on the Baseline environment?			
2.20	Have all the sources of data and information from existing databases, free services, and other relevant environmental assessments been investigated?			
2.21	Have sources of data and information on the existing environment been adequately referenced?			
2.22	Is justification provided about which particular existing datasets were relied upon, as opposed to others?			
2.23	Where has data collection been undertaken to characterize the Baseline environment? Have the methods used, any difficulties encountered, and any uncertainties been described?			
2.24	Were the methods used appropriately for the purpose?			

No.	Question	Relevant?	Adequately addressed?	What further information is needed?
2.25	Have the methods used to predict the impact of the project on climate change been described? (if relevant)			
2.26	Have the methods used to predict climate change's impact on the project been described?			
2.27	Is the uncertainty attached to the climate change evolution predictions discussed? (If relevant)			
2.28	Did you consider the life cycle assessment of the project to describe the project's impact on climate change? (if relevant)			
2.29	Have any important gaps in the data on the existing environment/ evolution prediction been identified (e.g. climate change), and have the means used to deal with these gaps during the assessment been explained?			
2.30	Where data collection would be required to characterize the Base-line environment adequately, but they have not been practicable for any reason, are the reasons explained, and have proposals been set out for the surveys to be undertaken at a later stage?			

Other questions on the description of the natural and social environment

SECTION 3. DESCRIPTION OF THE LIKELY SIGNIFICANT IMPACTS OF THE PROJECT

Scoping of impacts

3.1	Has the process by which the scope of the information for the EIA report is defined been described? (i.e. requirements of the respective environmental impact assessment programme were referred to)			
3.2	Have all the requirements of the respective impact assessment programme been addressed?			

Prediction of direct impacts

3.3	Have the direct, primary impacts on land uses, people, and property been described and, where appropriate, quantified?			
3.4	Have the direct, primary impacts on geological features and characteristics of soils been described and, where appropriate, quantified?			
3.5	Have the direct, primary impacts on biodiversity been described and, where appropriate, quantified? (if relevant, are references made to protected areas/ Emerald sites?)			
3.6	Have the direct, primary impacts on the hydrology and water quality of water features been described and, where appropriate, quantified?			

No.	Question	Relevant?	Adequately addressed?	What further information is needed?
3.7	Have the direct, primary impacts on uses of the water environment been described and, where appropriate, quantified? (if relevant, are references made for river basin management plans/programmes of measures under the national law?)			
3.8	Have the direct, primary impacts on air quality been described and, where appropriate, quantified? (if relevant, are references made to air quality plans under the national law?)			
3.9	Have the direct, primary impacts on climate been described and, where appropriate, quantified?			
3.10	Have the direct, primary impacts on the acoustic environment (noise or vibration) been described and, where appropriate, quantified? (if relevant, are references made to action plans/ programme under the national laws?)			
3.11	Have the direct, primary impacts on heat, light, or electromagnetic radiation been described and, where appropriate, quantified?			
3.12	Have the direct, primary impacts on material assets and depletion of natural resources (e.g. fossil fuels, minerals) been described?			
3.13	Have the direct, primary impacts on locations or features of cultural importance been described?			
3.14	Have the direct, primary impacts on the quality of the landscape and on views and viewpoints been described and, where appropriate, illustrated?			
3.15	Have the direct, primary impacts on environmentally relevant demography, social, and socioeconomic condition in the area been described and, where appropriate, quantified?			
3.16	Have the secondary impacts on any of the environment's aspects above, caused by primary impacts on other elements, been described and, where appropriate, quantified? (e.g. impacts on biodiversity, including species and habitats protected under the national laws caused by soil, air, or water pollution or noise; impacts on uses of water caused by changes in hydrology or water quality; impacts on archaeological remains caused by desiccation of soils)			
3.17	Have the temporary, short-term impacts caused only during construction or during time-limited phases of project operation or decommissioning been described? (e.g. emissions produced during the construction)			
3.18	Have the permanent environmental impacts caused by the project's construction, operation, or decommissioning been described?			
3.19	Have the long-term impacts on the environment, caused over the lifetime of project operations or caused by a build-up of pollutants, in the environment been described?			

No.	Question	Relevant?	Adequately addressed?	What further information is needed?
3.20	Have the impacts that could result from accidents, abnormal events, or exposure of the project to natural or man-made disasters been described and, where appropriate, quantified?			
3.21	Have the environmental impacts caused by activities ancillary to the main project been described? (ancillary activities are part of the project but usually occur at a distance from the main project location; for example, construction of access routes and infrastructure, traffic movements, sourcing of aggregates or other raw materials, generation, and supply of power, disposal of effluents or wastes)			
3.22	Have the indirect impacts on the environment caused by consequential development been described? (consequential development is other projects, not part of the main project, stimulated to take place by the implementation of the project; for example, to provide new goods or services needed for the project, to house new populations or businesses stimulated by the project)			
3.23	Have the cumulative impacts on the environment of the project, together with other existing or planned developments in the locality, been described? (different future scenarios, including a worst-case scenario, should be described, as well as the impacts on both climate change and biodiversity)			
3.24	Have the transboundary impacts on the environment of the project, either during construction or operation, been described?			
3.25	Have the geographic extent, duration, frequency, reversibility, and probability of occurrence of each effect been identified as appropriate?			
Prediction of impacts on human health and sustainable development issues				
3.26	Have the primary and secondary impacts on human health and welfare described and, where appropriate, been quantified? (e.g. health impacts caused by the release of toxic substances to the environment, health risks arising from major hazards associated with the project, impacts caused by changes in disease vectors caused by the project, changes in living conditions, impacts on vulnerable groups)			
3.27	Have the impacts on issues such as biodiversity, aquatic environment, global climate change, use of natural resources, and disaster risk been discussed, where appropriate?			
Evaluation of the significance of impacts				
3.28	Is the significance or importance of each predicted effect clearly explained concerning legal or policy requirements, other standards, and the number, importance, and sensitivity of people, resources, or other receptors affected?			

No.	Question	Relevant?	Adequately addressed?	What further information is needed?
3.29	Where impacts are evaluated against legal standards or requirements, have the appropriate local, national, or international standards been used, and has relevant guidance followed?			
3.30	Have the positive impacts on the environment been described, as well as the negative impacts?			
Impact assessment methods				
3.31	Have the methods used to predict the impacts described, the reasons for their choice, any difficulties encountered, and uncertainties in the results been discussed?			
3.32	Where there is uncertainty about the precise details of the project, and its impact on the environment/climate change, have worst-case predictions been described?			
3.33	Where there have been difficulties in compiling the data needed to predict or evaluate impacts, have these difficulties been acknowledged, and their implications for the results have been discussed?			
3.34	Has the basis for evaluating the significance or importance of impacts been described clearly?			
3.35	Have the impacts been described on the basis that all mitigation measures proposed have been implemented, i.e. have the residual impacts been described?			
3.36	Is the level of treatment of each effect appropriate to its importance? Does the discussion focus on the key issues and avoid irrelevant or unnecessary information?			
3.37	Is appropriate emphasis given to the project's most severe, adverse impacts, with lesser emphasis on less significant impacts?			
Other questions relevant to the description of impacts				

SECTION 4. CONSIDERATION OF ALTERNATIVES

4.1	Have the different alternatives been considered and assessed, and if not, has justification been provided?			
4.2	Have the initiator and practitioners preparing the EIA report identified and assessed additional alternatives?			
4.3	Have the alternatives to technology been considered during this process?			
4.4	Have the alternatives to the location considered during this process been described?			

No.	Question	Relevant?	Adequately addressed?	What further information is needed?
4.5	Have the alternatives to the size considered during this process been described?			
4.6	Have the alternatives to the scale considered during this process been described?			
4.7	Has the baseline situation in the 'do-nothing' scenario been described?			
4.8	Are the alternatives realistic and genuine alternatives to the project?			
4.9	Have the main reasons for choosing the proposed project been provided, including an indication of the main reasons for selecting the preferred option, including a comparison of the environmental impacts?			
4.10	Are the main environmental impacts of the alternatives compared to those of the proposed project?			
4.11	Are mitigation measures considered in the assessment of alternatives? (more on mitigation in section 5 below)			
Other questions on consideration of alternatives				

SECTION 5. DESCRIPTION OF MITIGATION MEASURES

5.1	Where there are significant adverse impacts on any aspect of the environment, has the potential for mitigating these impacts been discussed?			
5.2	Have the measures that the initiator has proposed to implement to mitigate impacts been clearly described, and is their effect on the magnitude and significance of impacts clearly explained?			
5.3	Have any proposed mitigation strategy's negative impacts been described?			
5.4	If the effect of mitigation measures on the magnitude and significance of impacts is uncertain, has this been explained?			
5.5	Is it clear if the initiator has made a binding commitment to implement the mitigation proposed or acknowledged that the mitigation measures are just suggestions or recommendations?			
5.6	Do the mitigation measures cover both the construction and operational phases of the project?			
5.7	Have the initiator's reasons for choosing the proposed mitigation been explained?			

No.	Question	Relevant?	Adequately addressed?	What further information is needed?
5.8	Have the responsibilities for implementing mitigation, including roles, responsibilities, and resources, been clearly defined?			
5.9	Where the mitigation of significant adverse impacts is not practicable, or where the initiator has chosen not to propose any mitigation, have the reasons for this been clearly explained?			
5.10	Is it evident that the practitioners developing the EIA report and the initiator have considered the full range of possible approaches to mitigation, including measures to avoid, prevent or reduce and, where possible, offset impacts by alternative strategies or locations, changes to the project design and layout, changes to methods and processes, 'end of pipe' treatment, changes to implementation plans and management practices, measures to repair or remedy impacts and measures to compensate impacts?			
Other questions on mitigation				

SECTION 6. DESCRIPTION OF MONITORING MEASURES

6.1	Where adverse impacts on any aspect of the environment are expected, has the potential for monitoring these impacts been discussed?			
6.2	Are the measures the initiator proposes implementing to monitor impacts clearly described, and has their objective been clearly explained?			
6.3	Is it clear whether the initiator has made a binding commitment to implement the proposed monitoring programme or that the monitoring measures are just suggestions or recommendations?			
6.4	Have the initiator's reasons for choosing the monitoring programme proposed been explained?			
6.5	Have the responsibilities for implementing monitoring, including roles, responsibilities, and resources, been clearly defined?			
6.6	Where monitoring of adverse impacts is not practicable, or the initiator has chosen not to propose any monitoring measures, have the reasons for this been clearly explained?			
6.7	Is it evident that the practitioners developing the EIA report and the initiator have considered the full range of possible approaches to monitoring, including monitoring measures covering all existing environmental legal requirements, monitoring measures stemming from other legislation to avoid duplication, monitoring of mitigation measures (ensuring expected significant impacts are mitigated as planned), monitoring measures capable of identifying important unforeseen impacts?			

No.	Question	Relevant?	Adequately addressed?	What further information is needed?
6.8	Have arrangements been proposed to monitor and manage residual impacts?			
Other questions on monitoring measures				

SECTION 7. QUALITY OF PRESENTATION AND NON-TECHNICAL SUMMARY

Quality of presentation				
7.1	Is the EIA report available in one clearly structured document or more volumes with clearly defined purposes?			
7.2	Is (are) the document(s) logically organized and clearly structured so that the reader can locate information easily?			
7.3	Is there a table of contents at the beginning of the document(s)?			
7.4	Is there a clear description of the process that has been followed?			
7.5	Is the presentation comprehensive but concise, avoiding irrelevant data and information?			
7.6	Does the presentation use tables, figures, maps, photographs and other graphics effectively?			
7.7	Does the presentation use annexes or appendices effectively to present detailed data that are not essential to understanding the main text?			
7.8	Are all analyses and conclusions adequately supported with data and evidence?			
7.9	Have all sources of data appropriately been referenced?			
7.10	Has terminology been used consistently throughout the document(s)?			
7.11	Does it read as a single document, with cross-referencing between sections to help the reader navigate the document(s)?			
7.12	Is the presentation demonstrably fair and, as far as possible, impartial and objective?			
Non-technical summary				
7.13	Does the EIA report include a non-technical summary?			
7.14	Does the summary provide a concise but comprehensive description of the project, its environment, the impacts of the project on the environment, the proposed mitigation measures and proposed monitoring arrangements?			

No.	Question	Relevant?	Adequately addressed?	What further information is needed?
7.15	Does the summary highlight significant uncertainties about the project and its environmental impacts?			
7.16	Does the summary explain the development consent process for the project and the EIA's role in this process?			
7.17	Does the summary provide an overview of the approach to the assessment?			
7.18	Has the summary been written in non-technical language, avoiding technical terms, detailed data, and scientific discussion?			
7.19	Would the summary be understandable to a layperson?			
Expertise				
7.20	Is the competency of experts responsible for preparing the EIA report indicated or otherwise explained in the EIA report?			
7.21	Has the initiator complied with national legal requirements and practices for selecting experts responsible for preparing the EIA report?			
Other questions on quality of presentation				

In practical terms, the quality control can proceed as follows:

Upon receipt of the EIA report, the members of the Technical Commission can use the checklist above containing a set of guiding questions to determine key case-specific aspects of the EIA quality. Confronting the EIA report documentation with the relevant selected evaluation questions will help evaluators to form an opinion about the strengths and weaknesses of the delivered EIA report and even about the quality of the underlining EIA process. The checklist should be regarded as an assistance tool, providing a structure and extensive overview of potentially relevant issues for the reviewer's consideration. The checklist, however, does not need to be a formal template for the output of the EIA report review process. Individual members of the Technical Commission can use it in a free manner with respect to their specific expertise and roles assigned to them (e.g. if responsibilities for reviewing different aspects of EIA are divided based on the internal arrangement of the Technical Commission's work reflecting different competencies and specializations of its members).

The opinion resulting from the evaluation can be summarized in a suitable comprehensible format (see the proposed template below), reflecting the general components of the EIA report quality review.

Table 3. Quality review summary matrix template

Quality aspect	Overall scoring <ul style="list-style-type: none"> • Completely covered/satisfactory • Partially covered/acceptable • Completely missing/unacceptable • Cannot be evaluated due to lack of information/need for clarification • Not relevant (a quality aspect is not relevant for the case) 	Comments (e.g. indication of a pass/fail score for a given quality aspect, indication of needs for further improvement)
1. Description of the project		
2. Description of the environmental and social factors likely to be affected by the project		
3. Description of the likely significant effects of the project		
4. Consideration of alternatives		
5. Description of mitigating measures		
6. Description of monitoring measures		
7. Quality of presentation and non-technical summary		
8. Final verdict		

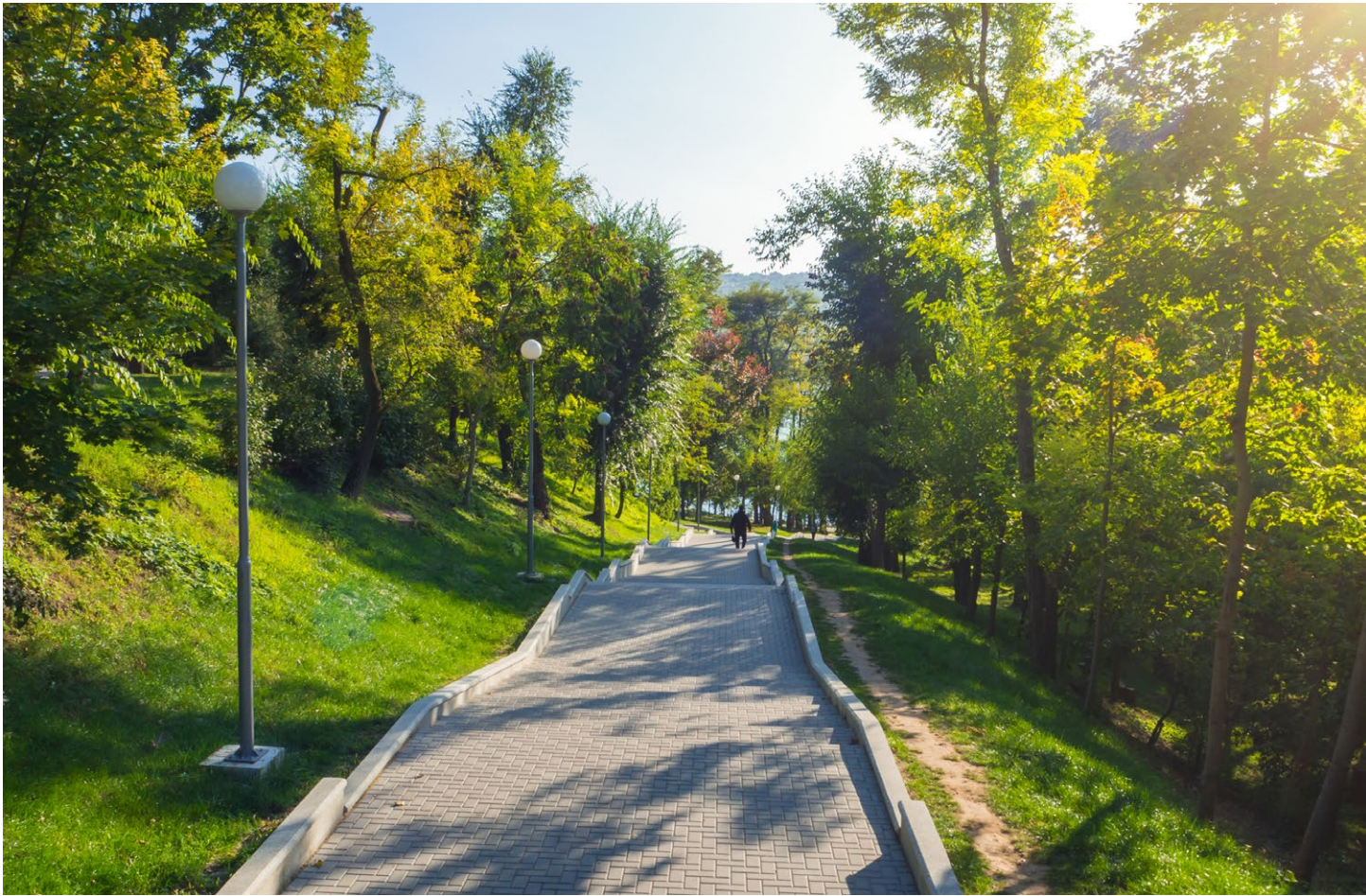
Based on the Technical Commission own working arrangements, as well as according to the functioning regulation of the Commission, the quality review summary for a given EIA case can be prepared either individually by each reviewer or collectively to provide a basis for preparing the required reasoned opinion on the quality of the EIA report, for submission to the Environmental Agency.

Throughout the EIA report quality review, as well as while preparing the reasoned opinion, the Technical Commission takes into account the provisions of article 10⁴ of the EIA Law:

- (a) The content of the EIA programme
- (b) Comments and suggestions received from the public concerned

- (c) Compliance with the requirements under article 10² for the content of the EIA report
- (d) The results of public discussions, including in a transboundary context, as appropriate
- (e) Presentation of the alternatives studied and the reasons underlying the selection of one of them
- (f) Presentation of graphic information: maps, figures, and diagrams
- (g) The need, or not, for post-project analysis.

The Technical Commission is free to consider all comments from other relevant stakeholders (e.g. representatives of the central and local public authorities concerned, invited independent experts), provided that their participation complies with the legal regime concerning conflicts of interest.



2. APPLICATION OF EIA IN A TRANSBOUNDARY CONTEXT

International legal framework

Espoo Convention

The Espoo Convention requires its Parties to “take all appropriate and effective measures to prevent, reduce and control significant adverse transboundary environmental impact from proposed activities.” The Espoo Convention effectively requires that the Party of origin open its EIA and decision-making procedures to the public and authorities in neighbouring potentially affected countries, taking their comments into account. There is no requirement that the preferences of the potentially affected Party dictate the final decision of the Party of origin, but “due account” must be taken of the consultations between the Parties and public participation undertaken under the Convention, including, for example, acknowledgment of comments received from authorities and the public of the affected Party. The Convention defines the key procedural steps of the transboundary EIA as follows:

- Determination of whether a transboundary EIA is required (arts. 2.2, 2.5/appendices I and III)
- Notification (art. 3.1)
- Indication of participation by the affected Party (art. 3.3)
- Transmittal of information by the Party of origin (arts. 3.5 and 3.6)
- Preparation of EIA documentation (art. 4 and appendix II)
- Distribution of the EIA documentation to authorities and the public of the affected Party in the areas likely to be affected for their comments (art. 4.2)
- Consultations between Parties (art. 5)
- Final decision (art. 6.1)
- Transmittal of final decision documentation (art. 6.2)
- Actions if information becomes available that could have materially affected the decision (art. 6.3)
- Post-project analysis (art. 7.1 and appendix V) – optional.

Definition of “significant impact”

The issue of crucial importance is identifying the “activities that are likely to cause significant adverse transboundary impacts,” which is a central element of the Convention because it triggers the whole transboundary consultations process.

The general guidance for identifying criteria to determine significant adverse impact is outlined in appendix III, paragraph 1 and includes the following considerations:

- (a) **Size:** proposed activities which are large for the type of the activity;
- (b) **Location:** proposed activities which are located in or close to an area of special environmental sensitivity or importance (such as wetlands designated under the Ramsar Convention, national parks, nature reserves, sites of special scientific interest, or sites of archaeological, cultural, or historical importance); also, proposed activities in locations where the characteristics of the proposed development would be likely to have significant effects on the population;
- (c) **Effects:** proposed activities with particularly complex and potentially adverse effects, including those giving rise to serious effects on humans or on valued species or organisms, those which threaten the existing or potential use of an affected area, and those causing additional loading which the carrying capacity of the environment cannot sustain.

Clearly, such criteria can always be open to interpretation and, therefore, may not always provide unambiguous guidance. This problem was widely reflected in the debates surrounding the implementation of the Convention, and alternative approaches were considered, such as the possibility of inclusion of the distance from the border as an additional criterion.³ Ultimately the debate concluded that there are no blueprints or technical norms that can provide an authoritative answer about the significance of the impact, and therefore the importance has to be judged on a case-by-case basis.⁴ This view was reapproved at the third session of the Meeting of the Parties to the Espoo Convention in June 2004.⁵

Sovereignty and obtaining information

It is clear that any potentially affected Party is in a vulnerable position due to a lack of means to learn about potentially relevant projects and plans considered by its neighbours. Namely, when suspicion arises around a specific project and no formal TEIA notification arrives from the Party of origin. For such cases, article 3, paragraph 7 of the Espoo Convention states:

When a Party considers that it would be affected by a significant adverse transboundary impact of a proposed activity listed in Appendix I, and when no notification has taken place in accordance with paragraph 1 of this Article, the concerned Parties shall, at the request of the affected Party, exchange sufficient information for the purposes of holding discussions on whether there is likely to be a significant adverse transboundary impact.

In practice, it may be difficult for the potentially affected Party to make effective use of this provision, namely because of the time factor, as information justifying an initiation of such negotiation is often found only when the concerned project is in an advanced phase of implementation, i.e. it is challenging to apply TEIA in a due manner. According to Fülöp (1998), the best solution to this problem is when the Parties have a common standing body of their contact points which is empowered to search for “suspect” projects regularly among the permitting authorities of both sides.⁶

Another sovereignty-related problem is how the initiator responsible for carrying out the EIA in the Party of origin can ensure access to the information related to the territory of the potentially affected Party that is necessary for analysing transboundary impacts. The Espoo Convention assumes that the affected Party is able and willing to supply the EIA process with necessary information about its territory.

3 A workshop on key elements for bilateral and multilateral agreements on environmental impact assessment (EIA) in a transboundary context was organized by the delegation of the Netherlands from 27 to 30 November 1994 in Baarn (Netherlands), pursuant to a decision taken at the third meeting of the Signatories (ENVWA/WG.3/6, annex III, element 01.4.2). report submitted by the delegation of the Netherlands.

4 UNECE: Current Policies, Strategies and Aspects of Environmental Impact Assessment in a Transboundary Context (ECE/CEP/9, 1996)

5 Decisions taken at the third session of the Meeting of the Parties to the Convention (2004). See the MOP Decision III/5 on Strengthening Subregional Cooperation. <https://www.unece.org/env/eia/decisions.html> Retrieved 13 February 2024.

6 Sándor Fülöp. “Problems of transboundary environmental impact assessment”. Fifth International Conference on Environmental Compliance and Enforcement. 16–20 November 1998, Monterey. Conference Proceedings.

The Convention, in article 3, paragraph 6, states as follows:

An affected Party shall, at the request of the Party of origin, provide the latter with reasonably obtainable information relating to the potentially affected environment under the jurisdiction of the affected Party, where such information is necessary for the preparation of the environmental impact assessment documentation. The information shall be furnished promptly and, as appropriate, through a joint body where one exists.

A strong motivation for providing this information stems from the fact that, although the affected Party cannot be forced to produce the required information, once failing to do so, it will have less basis for argument during the subsequent transboundary consultations.

The obligation of the affected Party to hand over relevant environmental and other data and information to the Party of origin is helping the EIA consultants working for the project initiator to take into account the situation on the territory of the affected Party while conducting the analysis and preparing EIA report. Nevertheless, it is highly unlikely that in the case of projects with complex impacts (e.g. hydropower projects), the transboundary EIA analysis can rely only on the information provided by the Government of the affected Party. It is, therefore, reasonable for the initiator to take steps on its own to obtain necessary information about the relevant territory in the affected Party. This must be feasible as, according to international private law, the initiator is fully entitled to make a contract with a consulting firm or with an expert in the territory of the affected Party to collect data for the EIA analysis.

EU EIA Directive

On 27 June 1985, the European Community adopted Council Directive 85/337/EEC on assessing certain public and private projects on the environment, which set a certain standard of environmental assessment widely followed in Europe. Even though the 1985 EIA Directive placed more of an emphasis on harmonizing the national EIA procedures of the Member States than on extending the procedure to foreign impacts and actors, article 7 of the Directive stipulated that if the Member State is aware that a project is likely to have significant effects in another Member State or the potentially affected Member State so requests, the information contained in the EIA study must be delivered to the affected Member State. The potentially affected Party is only given a right to consultations.

Nevertheless, the Directive provided a first functional example of a legally binding procedure that at least connected the potentially affected Party somehow to the EIA procedure of the State of origin. The European EIA Directive had also become a model for developing the UNECE Espoo Convention described above.

The EIA Directive of 1985 has been amended several times, notably in 1997, when it was brought into line with the Espoo Convention. The new Directive widened the scope by increasing the types of projects covered and the number of projects requiring mandatory environmental impact assessment (annex I). It also provided new screening arrangements, including new screening criteria (annex III) for annex II projects, and established minimum information requirements. The latest amendment to the EIA Directive, which (2014/52/EU) entered into force on 15 May 2014, brought about a certain simplification of the procedural rules and more emphasis on issues such as resource efficiency, climate change and disaster prevention.⁷

According to the Association Agreement between the Republic of Moldova and the European Union⁸ signed on 27 June 2014 and entering into force on 1 July 2016, Moldova shall carry out an approximation of its legislation to the acts of the European Union, including the core provisions of the EIA Directive, and including the establishment of arrangements with neighbouring countries for exchanging information and for consultation (as per article 7 of the EIA Directive).

⁷ For details, see the EU Commission website: <http://ec.europa.eu/environment/eia/eia-legalcontext.htm>

⁸ Association Agreement between the European Union and the European Atomic Energy Community and their Member States and the Republic of Moldova, Official Journal of the European Union, vol. 57, 30 August 2014. https://eeas.europa.eu/archives/docs/moldova/pdf/eu-md_aa-dcfta_en.pdf

National legal framework and its application

Dedicated provisions related to the transboundary EIA are part of the amended Law No. 86 of 29 May 2014 on Environmental Impact Assessment:⁹

- Art. 7, which describes the situations when the EIA procedure is carried out in a cross-border context
- Arts. 4 and 5, which describe the responsibilities and role of the Ministry of Environment and the Environmental Agency in the EIA procedure in a cross-border context – art. 5² g) and art. 6 para. 1, where it is mentioned, the costs borne by the initiator vis-à-vis the interpretation services both in the framework of public debates and regarding the translation of the information requested by the Environmental Agency.
- Art. 10 para. 2b mentions that based on the preliminary assessment results and in the context of the existing information presented by the initiator, the competent authority will decide if the planned activity requires the performance of the environmental impact assessment in a transboundary context in accordance with arts. 11–15
- Art. 10 para. 5 for the planned activities for which a TEIA is deemed necessary, the Environmental Agency will suspend the implementation of the environmental impact assessment procedure at the national level. Within five working days, the Environmental Agency requests the initiator to translate the application regarding the issuance of the environmental agreement into the language of the affected Party or into another language provided for based on the obligations assumed by the Republic of Moldova on an international level.
- Art. 10 para. 2g highlights that the EIA report will include the transboundary impact.
- Art. 10⁴ describes the procedure for evaluating the quality of the EIA report. Thus, d) mentions that the Technical Commission will evaluate the quality of the report, including in the context when the EIA was carried out in a transboundary context. Likewise, para. 4 of the same article mentions that once the opinion of the Technical Commission has been received and taking into account the comments and opinions of the public, including those in a transboundary context (should this procedure be carried out), if it does not meet the established requirements, the Environmental Agency has 10 working days to issue an opinion regarding the quality of the report, where it will indicate the inappropriate aspects and may include measures to finalize the report.
- Art. 10⁵ para. 5e describes that the issued environmental agreement will contain the requirements for preventing or minimizing the negative transboundary impact on the environment in the case of planned activities that are the subject of the TEIA.
- Art. 11. General aspects regarding environmental impact assessment in a transboundary context. The following guidance is structured in the corresponding two sections.

⁹ Amended by Law no. 225 of 13 October 2022 on changes in some legal acts (entering into force on 4 November 2023).

2.1. Moldova as a Party of origin

2.1.1. Determination of whether a transboundary EIA is required

International reference

It is necessary to determine if the proposed activity may cause significant adverse transboundary impacts and thus can be subject to a transboundary EIA (hereinafter TEIA). For this purpose, the action is checked against the activities in appendix I of the Espoo Convention. If it is listed there, it is then analysed regarding the possibility of causing a significant transboundary impact. If the activity is not included in the list, it can be reviewed against the significance criteria in appendix III of the Convention (arts. 2.2 and 2.5 and appendices I and III).

National requirements

The Law on EIA indicates the need to determine potential transboundary impacts during the preliminary (prior) assessment issued by the Environmental Agency in accordance with art. 10 of the EIA Law. The following actions are required:

Initiator

1. Prepare and submit the “request for environmental agreement” as per article 7 that transparently and honestly indicates potential environmental impacts, including impacts on the territory of other countries;
2. And, if instructed by the Environmental Agency that a TEIA applies:
 - a. Prepare a formal TEIA notification (according to the template in annex no. 5. of the EIA Law)
 - b. Arrange for translation of the “request for environmental agreement” and of the notification into the language of the potentially affected Party (or another agreed-upon language)

Environmental Agency

Within the preliminary assessment phase, the agency evaluates the possibility of significant transboundary environmental impacts and determines the need for carrying out TEIA;

Other stakeholders

The central and local public authorities and the interested public taking part in the preliminary assessment as per article 7 of the EIA Law can express their opinion as to whether the planned activity can have a significant transboundary impact, and carrying out a TEIA is therefore desirable.

Practical advice¹⁰

For the Environmental Agency to be able to determine whether for a given planned activity the TEIA must be carried out, it has to:

- Identify likely transboundary environmental impacts (if any)
- Determine the significance of the likely transboundary impacts.

In this effort, the Environmental Agency relies on the information supplied by the initiator. It is therefore reasonable for the agency to instruct and encourage the initiator to include as much information as reasonably possible related to potential environmental impacts of the planned activity, including transboundary impacts.

10 This section draws upon the report by the UNECE Espoo Convention secretariat (1995). Available at <https://unece.org/info/Environment-Policy/Environmental-assessment/pub/21594>

How to identify the likely transboundary impacts

Identifying the likely transboundary impacts should start with identifying any potential impacts of a project/proposed activity, with special attention to adverse impacts, and considering their potential to extend over the country's borders. In Moldova, the following can be typical environmental issues of concern in a transboundary context:

Table 4. Typical environmental concerns related to projects/proposed activities with potential transboundary impacts

Environmental Issue	Relevance/comments
Water pollution	Pollution of the rivers that cross Ukrainian and Moldovan borders (Dniester) and Moldovan, Romanian and Ukrainian borders (Prut), for example due to future developments of settlements and/or industrial sites generating water pollution upstream of Moldova territory
Biodiversity loss Damage to protected areas Ecosystems' disturbance	Infrastructure development between neighbouring countries, such as the construction of bridges, roads and energy networks, can significantly impact ecosystems, habitats, biodiversity, and wildlife migration corridors
Water loss¹¹	Potential excessive extraction from the new activities in upstream watersheds (agriculture, energy, human use) Building of the new hydropower plants by Ukraine on the Dniester River (in the future)
River morphology and sediment transfer pattern disturbance Aquatic ecosystems' disturbance	Building of the new hydropower plants by Ukraine on the Dniester River (in the future)
Air pollution Ecosystem disturbance	Construction of roads and bridges across the rivers (e.g. the new bridge between Moldova and Ukraine that is planned to be built in the Soroca District) that will allow more cars and other transport in the region

A simple checklist listing potential adverse transboundary impacts, such as the example provided in Table 5,¹² can serve this purpose.

Table 5. Identification of adverse transboundary impacts

1. Can the proposed activity (or any major change to an activity) or its reasonable alternatives result in one or more of the following adverse transboundary impacts?	Type of expected impact
A. Air	
(a) Changes in ambient air quality	
(b) Release of any toxic or hazardous air pollutant, radiation, or genetically engineered organisms	
(c) Changes in noise levels and level of vibrations	
(d) Other (specify)	

11 As it is indicated in the report "Analysis of the effects of Dniester Reservoirs on the state of the Dniester River (according to the calculations as of 2019)", the decrease in the annual runoff of the Dniester River downstream of the [existing] cascade of HPPs and PSPPs (Mogilev-Podolsky) amounts to 3.2%–6.6%, and is due to additional evaporation from the surface of reservoirs, the presence of intakes in this section of the river, and other factors. Full report available <https://zoinet.org/wp-content/uploads/2019/12/Dniester-hydropower-effects-EN.pdf>

12 UNECE: Determining Significance. Specific Methodologies and Criteria to Determine the Significance of Adversary Transboundary Impact. <https://unece.org/determining-significance>

<p style="text-align: center;">B. Water</p> <ul style="list-style-type: none"> (a) Surface water: Changes in water quality or water quantity (b) Groundwater: Changes in water quality or quantity (c) Coastal water: Changes in quality (d) Sediments: Changes in quality and quantity (riverine, estuarine, coastal) (e) Release of any toxic or hazardous water pollutant, radiation, or genetically engineered organisms (f) Other (specify) 	
<p style="text-align: center;">C. Climate</p> <ul style="list-style-type: none"> (a) Microclimatic changes (temperature, rainfall, wind) (b) Other (specify) 	
<p>2. Can the proposed activity, or the related emissions listed above, result in one or more of the following adverse transboundary impacts:</p>	
<p style="text-align: center;">D. Soil</p> <ul style="list-style-type: none"> (a) Changes in soil acidification, nitrification, or other contamination (b) Changes in deposition or erosion (c) Other (specify) 	
<p style="text-align: center;">E. Landscape/historic monuments or other physical structures</p> <ul style="list-style-type: none"> (a) Changes in land use (b) Decreased aesthetic appeal or changes in visual amenities (c) Changes in historical, archaeological, paleontological, architectural, or cultural assets (d) Changes in quality and quantity of recreational opportunities or amenities (e) Changes to present or potential use of natural resources (e.g. fisheries, hunting, agriculture/forestry, tourism) (f) Impacts on ecologically sensitive areas or areas of particular environmental value (g) Other (specify) 	
<p style="text-align: center;">F. Human health and safety</p> <ul style="list-style-type: none"> (a) Changes in human health and safety (b) Changes in disease incidence (c) Changes to well-being and quality of life (d) Other (specify) 	
<p style="text-align: center;">G. Flora, fauna</p> <ul style="list-style-type: none"> (a) Changes in migratory patterns (e.g. birds, fish, mammals) (b) Disturbance of habitat (c) Decrease in biological diversity (d) Impacts on threatened species (e) Changes in species composition (f) Other (specify) 	
<p>3. Can the proposed activity cause accidents with transboundary impacts?</p>	
<p>4. Can the proposed activity invoke any existing international agreement on environmental matters?</p>	
<p>5. Can the proposed activity affect interactions among environmental factors?</p>	

Determining the significance of the identified likely transboundary impacts

The term “significant” is understood as excluding mere inconveniences or minor disturbances countries are expected to tolerate from one another, in conformity with the principle of good neighbourliness.¹³ In practice, the significance of transboundary environmental impacts (such as those indicated in the checklist above) could be considered based on: (a) *probability*; and (b) *extent*.

The approach described below can be used for the initial estimation of the level of probability and the extent of transboundary impacts of the proposed project and help classify the impact level. Significant transboundary environmental impacts may therefore be identified and defined by combining the two components as described in Tables 6, 7, and Table 8, respectively.

Table 6. Transboundary impacts: probability

Level	Descriptor	Probability of impact
1	Rare	May occur only under very exceptional circumstances
2	Unlikely	Could occur sometimes
3	Moderately likely	Might occur sometimes
4	Likely	Will probably occur under most circumstances
5	Almost certain	Expected to occur under most circumstances

Table 7. Transboundary impacts: extent

Level	Descriptor	Extent of impact
1	Insignificant	Very minor
2	Minor	Minor, with small mitigation costs
3	Moderate	Medium level, requiring ongoing management or expensive corrective action
4	Major	A major issue, high financial loss and high and long-term management costs
5	Catastrophic	Serious issues, very high financial loss and very high and long-term costs

The significance of the transboundary impacts can be determined based on the relationship between the two components, as illustrated in the matrix (table 8), where impacts are classified into different levels or categories as low, medium, significant, or very significant.

¹³ Such understanding is established in the relevant context, for example, by the UN Convention on the Law of the Non-Navigational Uses of International Watercourses. See, for example, discussion of the term on the Convention’s website, <https://unece.org/environment-policy/water/about-the-convention/faqs>.

Table 8. Transboundary impacts: significance

Probability		Extent				
		Insignificant	Minor	Moderate	Major	Catastrophic
Level of Impact		1	2	3	4	5
1	Rare	1.0	1.5	2.0	2.5	3.0
2	Unlikely	1.5	2.0	2.5	3.0	3.5
3	Moderate	2.0	2.5	3.0	3.5	4.0
4	Likely	2.5	3.0	3.5	4.0	4.5
5	Almost Certain	3.0	3.5	4.0	4.5	5.0

Source: Modification from IHA protocol¹⁴

Level of transboundary impact classification:

1.0 – 2.0 Low

2.5 – 3.0 Medium

3.5 – 4.0 Significant

4.5 – 5.0 Very significant

The above approach is not intended to produce an “objective” decision on whether or not the potential transboundary impacts associated with a given project are “significant” enough to trigger TEIA. In the transboundary context, where individual Parties often hold different views and display different sensitivity to various issues, it would be necessary to reach mutual understanding through engaging in deliberative consultation. Therefore, possible lack of agreement on what particular values of considered environmental indicators shall constitute thresholds defining a “significant” impact must not be used as a pretext for postponing or not proceeding with the TEIA process.

The transboundary impacts that meet any of the following criteria should always be considered significant and should therefore lead to the notification of an affected Party:

- (a) The magnitude of the expected impact in a transboundary area exceeds the environmental objectives or safety and health standards of the affected Party;
- (b) The expected impact leads to an adverse change in a protected area in the affected Party; or
- (c) Impacts that are due to accidents and that may meet any of the criteria (a) and (b).

2.1.2. Notification

International reference

Transboundary assessment is initiated through an obligatory and formal notification sent by the responsible authorities of a Party of origin to any affected Party as early as possible (arts. 2.4, 3.1, and 3.2 of the Convention). The notification should contain (art. 3.2) information on the proposed activity, including any available information about its possible transboundary impact:

- (a) Information about the nature of the decision to be taken
- (b) An indication of a reasonable time frame within which a response is anticipated
- (c) It may also include information about the timeline of the TEIA procedure (art. 3.5).

¹⁴ International Hydropower Association. Sustainability Assessment Protocol, pp. 9 and 10, July 2006.

If no notification was made, a Party that considers itself likely to be affected by a transboundary impact of a proposed activity, based on the information available to that Party, may approach the Party of origin to start consultations on the need to carry out a transboundary assessment (art. 3.6).

As per article 3.3. of the Espoo Convention, the affected Party shall respond to the Party of origin within the time specified in the notification, acknowledging receipt of the notification. It shall indicate whether it intends to participate in the TEIA.

If the affected Party indicates that it does not intend to participate in the TEIA, or if it does not respond within the time specified in the notification, the provisions of the Convention pertaining to consultations, public participation, transfer of the EIA documentation, and the final decision, and post-project analysis will not apply, and the Party of origin can proceed with the EIA as per national laws (art. 3.4).

Upon receipt of a response from the affected Party indicating its desire to participate in the environmental impact assessment procedure, the Party of origin shall, if it has not already done so, provide to the affected Party:

- a. Relevant information regarding the environmental impact assessment procedure, including an indication of the schedule for transmittal of comments
- b. Relevant information on the proposed activity and its possible significant adverse transboundary impact.

National requirements

Upon deciding that potential environmental impacts of the planned activity entail significant transboundary impacts and therefore justify TEIA, the following actions shall be taken to notify the potentially affected Party and thus formally initiate the transboundary EIA process:

Initiator

1. Following the request by the Environmental Agency, the initiator prepare a draft of the formal TEIA notification (according to the template in annex No.5. of the EIA Law, see template below)
2. To arrange for translation of the “request for environmental agreement” and the notification into the language of the potentially affected Party (or other agreed-upon language)

The notification shall contain information on which the affected Party can determine its level of interest and involvement in the environmental impact assessment.

A template for the notification conforming with the provisions of article 3.2 of the Espoo Convention is provided below:

Table 9. Transboundary environmental impact assessment Notification form template¹⁵

1. INFORMATION ON THE PROPOSED ACTIVITY	
(i) Information on the nature of the proposed activity	
Type of activity proposed	
Is the proposed activity listed in Appendix I of the Convention?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Scope of the proposed activity (e.g. main activity and any/all peripheral activities requiring assessment)	
Scale of the proposed activity (e.g. size, production capacity)	

¹⁵ Adopted from UNECE: Guidance on notification according to the Espoo Convention (2009). <https://unece.org/DAM/env/documents/2009/eia/ece.mp.eia.12.pdf>.

Description of the proposed activity (e.g. technology used)	
Description of the proposed activity	
Rationale for the proposed activity (e.g. socioeconomic basis, physical geographic basis)	
Additional information/comments	
(ii) Information on the spatial and temporal boundaries of the proposed activity	
Location	
Description of the location (e.g. physical-geographic characteristics, socioeconomic characteristics)	
Rationale for the location of the proposed activity (e.g. socioeconomic basis, physical-geographic basis)	
Time frame for the proposed activity (e.g. start and duration of construction and operation)	
Maps and other pictorial documents connected with the information on the proposed activity	
Additional information/comments	
(iii) Information on expected environmental impacts and proposed mitigation measures	
Scope of assessment (e.g. consideration of cumulative impacts, evaluation of alternatives, sustainable development issues, and the impact of peripheral activities)	
Expected environmental impacts of the proposed activity (e.g. types, locations, magnitudes)	
Inputs (e.g. raw material, power sources)	
Outputs (e.g. amounts and types of emissions into the atmosphere, discharges into the water system, solid waste)	
Transboundary impacts (e.g. types, locations, magnitudes)	

Proposed mitigation measures (e.g. if known, mitigation measures to prevent, eliminate, minimize, and compensate for environmental effects)	
Additional information/comments	
(iv) Proponent/initiator	
Name, address, telephone	
(v) EIA documentation	
Is the EIA documentation (e.g. EIA report) included in the notification?	Yes <input type="checkbox"/> No <input type="checkbox"/> Partially <input type="checkbox"/>
If the answer to the above is "no" or "partially", a description of additional documentation will be forwarded and (approximate) date(s) when documentation will be available.	
Additional information/comments	

2. POINTS OF CONTACT

(i) Points of contact for the possible affected Party or Parties

Authority responsible for coordinating activities relating to the EIA (refer to decision I/3, appendix) • Name, address, telephone	
List of affected Parties to which notification is being sent	

(ii) Points of contact for the Party of origin

Authority responsible for coordinating activities relating to the EIA (refer to decision I/3, appendix) • Name, address, telephone	
Decision-making authority is different from the authority responsible for coordinating activities relating to the EIA • Name, address, telephone	

3. INFORMATION ON THE EIA PROCESS IN THE COUNTRY WHERE THE PROPOSED ACTIVITY IS LOCATED

(i) Information on the EIA process that will be applied to the proposed activity

Time schedule	
Opportunities for the affected Party or Parties to be involved in the EIA process	

Opportunities for the affected Party or Parties to review and comment on the notification and the EIA documentation	
Nature and timing of the possible decision	
Process for approval of the proposed activity	
Additional information/comments	

4. INFORMATION ON THE PUBLIC PARTICIPATION PROCESS IN THE COUNTRY OF ORIGIN

Public participation procedures	
Expected start and duration of public consultation	
Additional information/comments	

5. DEADLINE FOR RESPONSE

Date	
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Source: Law on EIA no 86/2014, Annex no 5

Environmental Agency/Ministry of Environment

1. The Environmental Agency shall suspend the conduct of the national environmental impact assessment procedure. Within five working days, the Environmental Agency shall request the initiator to translate the request for the issuance of the environmental agreement submitted in accordance with article 7, para. 1 of the Law on EIA in one of the official languages of the Espoo Convention (hereinafter – accessible language), established by joint agreement with the affected Party.
2. The Ministry of Environment must within five working days of receipt of the notification and requested translation into the language of the affected State or States from the initiator, submit them to the competent authority of the affected Party through diplomatic channels and set a time limit of at least 30 days in which the affected Party is to communicate its participation or non-participation in the environmental impact assessment procedure in a transboundary context.
3. After receiving the response of the affected Party or in case of the absence of the answer, the competent authority/Environmental Agency decides on the further steps of the (T)EIA.

If the affected Party indicates that it does not intend to participate in the TEIA, or if it does not respond within the time specified in the notification, the provisions of the Convention pertaining to consultations, public participation, transfer of the EIA documentation, and the final decision, and post-project analysis will not apply, and the Party of origin can proceed with the EIA as per national laws (art. 12 para. 7 of the Law on EIA 86/2014).

Suppose the affected Party, within the set deadline, expresses its wish to participate in the environmental impact assessment procedure. In that case, the Environmental Agency, through the Ministry of Environment (according to art. 12, para. 7), immediately proposes initial consultations to agree upon the methods, timeframes, and other details of the respective transboundary environmental impact assessment procedure between the concerned Parties, in particular, related to:

- (a) the degree and manner of contribution to the development of the environmental impact assessment programme;

- (b) the exchange of information necessary for the elaboration of the report on the environmental impact assessment;
 - (c) translation and transfer of the report on environmental impact assessment;
 - (d) informing and consulting the interested public and the interested local and central public authorities of the affected Party and submitting their opinions to the competent authority;
 - (e) conducting intergovernmental consultations on measures to prevent, reduce or mitigate the negative consequences of the planned activity.
4. After completing the initial consultations with the affected Party, the Environmental Agency proceeds with issuing the decision on the prior assessment, including the environmental impact assessment programme (i.e. determining the scope of the environmental impact assessment report) as per article 10¹ of the EIA Law, which includes requirements regarding the assessment of the transboundary impacts to be reflected in the EIA report.
 5. As per article 13 of the EIA Law, the Environmental Agency provides the environmental impact assessment programme (translated by the initiator) through the Ministry of Environment to the competent authority of the affected Party for comments (with a deadline of a minimum of 30 days)

Practical advice

It is the notification that formally triggers the TEIA procedure between the Parties. Before a formal notification, though, informal, pre-notification contacts are recommended for both Parties to prepare for the upcoming TEIA. Namely, if uncertainty exists about whether the planned activity has a significant transboundary impact, the Parties may enter into consultations to determine the likelihood and significance of potential transboundary impacts. Notably, any such preliminary transboundary consultations should be distinguished from the official notification.

The formal notification shall be submitted in a tabular form with an accompanying cover letter. The cover letter should provide a brief overview of the planned activity with likely significant transboundary impacts and an indication that this is a notification under article 3 of the Espoo Convention.

The project initiator is required to prepare the draft of the notification. This is to facilitate the involvement of the initiator from the very onset of the TEIA procedure and to ensure the initiator's awareness of its responsibilities to ensure adequate expertise for conducting the environmental assessment in the transboundary context.

Moldova should receive a confirmation of participation or non-participation within 30 days. If a timely response is not received, it may be interpreted as the intention of the notified Party not to participate. However, in instances when the response is not received within the specified timeframe, it is still recommended that the Environmental Agency inquires at the potentially affected Party to ensure that the lack of response is not due to technical issues, procedural delays, or the like, and request a written confirmation from the affected Party about its (non-)participation.

When Moldova receives the confirmation of participation, the Environmental Agency is responsible for initiating the initial consultations to facilitate mutual understanding and agreement on the arrangement for the entire TEIA process, its timelines, and deadlines. At this stage, it is recommended to ensure participation not only by representatives of the competent authorities of both concerned Parties but crucially also by the representatives of the initiator of the planned activity and the EIA team (appointed by the initiator). In that manner, it will be possible to effectively consult not only the formal and procedural aspects of the TEIA but also the expert considerations important for the definition of the TEIA scope and focus, including, as far as practicable, an agreement on methods, criteria, indicators, and data to be used in the assessment.

The competent authority/Environmental Agency in Moldova may become aware of the potential significant transboundary impact at a later stage of the EIA (e.g. when reviewing the EIA report) rather than early on during the Preliminary assessment stage. Regardless of the stage at which the significant transboundary impacts are identified, the Environmental Agency should formally notify the affected Party about such possibility and the need for a TEIA and proceed from there to agree on transboundary consultations of the EIA report.

2.1.3. Conducting the EIA and preparation of the EIA report

International reference

In accordance with article 4 of the Espoo Convention and as set out in appendix II on the content of the environmental impact assessment documentation, the information to be included must, as a minimum, contain:

- (a) A description of the proposed activity and its purpose;
- (b) A description, where appropriate, of reasonable alternatives (for example, locational or technological) to the proposed activity and also the no-action alternative;
- (c) A description of the environment likely to be significantly affected by the proposed activity and its alternatives;
- (d) A description of the potential environmental impact of the proposed activity and its alternatives and an estimation of its significance;
- (e) A description of mitigation measures to keep adverse environmental impact to a minimum;
- (f) An explicit indication of predictive methods and underlying assumptions, as well as the relevant environmental data, used;
- (g) An identification of gaps in knowledge and uncertainties encountered in compiling the required information;
- (h) Where appropriate, an outline for monitoring and management programmes and any plans for post-project analysis;
- (i) A non-technical summary including a visual presentation as appropriate (maps, graphs, etc.).

The Party of origin shall furnish the affected Party with the EIA documentation (art. 4.2).

National requirements

The responsibility for carrying out the assessment and preparing the report lies entirely with the initiator. According to article 10(2), paragraph 2 of the EIA Law, which is aligned with the above requirements of the Espoo Convention, the report must contain the following:

- (a) Description of the location of the planned activity and description of the physical characteristics of the entire planned activity, including, if applicable, the necessary demolition works, as well as land use requirements during the construction and operation stages;
- (b) Description of the main characteristics of the operational stage of the planned activity, in particular, the production processes (energy required and energy used, nature and quantity of materials and natural resources used, including water, land, soil, and biodiversity);
- (c) Estimation, depending on type and quantity, of residues and potential emissions (e.g. pollution of water, air, soil, and subsoil, noise, vibrations, light, thermal and radioactive radiation), as well as the quantities and types of residues produced during construction and operation of the planned activity;
- (d) Description of the current state of the environment (the baseline scenario) and description of its likely evolution if the planned activity is not implemented to the extent that natural changes from the baseline scenario can be assessed by making reasonable efforts based on the available information and scientific knowledge about the environment;
- (e) Description of reasonable alternatives (in terms of design, technology, location, size, and scope of the planned activity) studied by the initiator, relevant to the planned activity, as well as the specific characteristics of the planned activity and indicating the main reasons underlying the choice made, including a comparison of environmental impacts;
- (f) Description of the factors provided for in article 4, paragraph 1 likely to be affected by the planned activity: population, human health, biodiversity (fauna and flora), land (land take), soil (organic matter, erosion, compaction, sealing), water (hydromorphological changes, quantity, and quality), air, climate (greenhouse gas emissions, impacts relevant to adaptation), material assets, cultural heritage, including architectural and archaeological aspects, and landscape;

- (g) Description of the potential significant impact of the planned activity on the environment, its size, duration and, where appropriate, its reversibility, resulting from:
 - (i) the construction and existence of the planned activity, including, if applicable, demolition works;
 - (ii) the use of natural resources, especially land, soil, water and biodiversity, taking into account, to the extent possible, the sustainable availability of these resources;
 - (iii) the emission of pollutants, noise, vibration, light, heat and radiation, the creation of harmful impacts and the disposal and recovery of waste;
 - (iv) the risks to human health, to cultural heritage or to the environment, such as those caused by the occurrence of accidents or disasters;
 - (v) the cumulative impacts with those of other existing and/or approved planned activities, taking into account any existing ecological problems related to areas of particular environmental importance that could be affected or by the use of natural resources;
 - (vi) the climate impact of the planned activity, such as the nature and extent of greenhouse gas emissions and the vulnerability of the planned activity to climate change; technologies and substances used.

The description must include the potential direct and indirect, secondary, cumulative, transboundary, short-, medium- and long-term, permanent and temporary, positive and negative impacts of the planned activity;

- (h) Description or evidence of the predictive methods used to identify and assess the significant environmental impact, including details of the difficulties – such as difficulties of a technical nature or due to lack of knowledge – encountered in compiling the requested information, as well as the presentation of the main existing uncertainties;
- (i) Description of measures expected to avoid, prevent, reduce, or, if possible, compensate for the significant negative impact on the environment identified both at the construction and the operation stage, as well as the viability and effectiveness of the amelioration measures for each alternative of the planned activity and each environmental component;
- (j) Description of the potentially significant negative impact on the environment, determined by the vulnerability of the planned activity to the risks of major accidents and/or disasters relevant to the planned activity, and, if applicable, of the measures to prevent or minimize the significant negative impact on the environment of such events, as well as details regarding the level of preparedness and the proposed response to such emergency situations;
- (k) Arguments in favour or against carrying out the post-project analysis; and the description, if needed, of the proposed monitoring measures, as well as of the indicators and deadlines, these being proportional both to the nature, complexity, location and size of the planned activity, and to the potentially significant negative impact on the environment;
- (l) Graphic information: maps, figures, and diagrams;
- (m) Contact details of the experts involved in the preparation of the report, the date of preparation of the report, the declaration on honour on fulfilment of the requirements provided for in paragraph 3, as well as their signatures;
- (n) Non-technical summary of the information mentioned in a)–m);
- (o) Reference list detailing the sources used for the descriptions and assessments included in the report.

Practical advice

Carrying out the assessment of the environmental impacts and compiling the related EIA report should be guided by national legislation and accompanying guiding materials of the Party of origin. On the technical-expert level, whether a given EIA process is carried out in a transboundary context or as an entirely domestic exercise does not make any difference. For Moldova, guidance is provided by the Handbook for the execution of the procedures of Environmental Impact Assessment, published through Order No. 1 dated 4 January 2019.

For the assessment carried out in a transboundary context, the following needs to be ensured:

- (a) Baseline analysis must adequately cover the entire potentially affected territory, including the areas located in the affected Party.

The environmental baseline needs to be meaningfully established even for the concerned territory under the jurisdiction of other countries. That can pose some practical issues in acquiring desired environmental and other data, especially if the data must be collected through a field survey.

It should be ensured during the early phase of the TEIA consultations that understanding is reached of how the initiator will acquire the relevant data. The national competent authority should facilitate communication through its counterpart in the affected Party between the initiator and institutions in possession of desired data or capable of helping to collect the data (e.g. environmental authorities, local municipalities, research institutions, universities).

Any data gap must be transparently acknowledged, and an explanation added of how it affects the accuracy of the impact assessment results or accompanied assumptions.

- (b) Relevant reference documents must be taken into consideration (defining environmental objectives and standards) not only of the Party of origin but also of the affected Party.

Where the impact assessment entails establishing a reference or threshold values derived from national environmental standards (e.g. to establish whether expected atmospheric emissions may exceed legal limits and, therefore, the impact must be qualified as “very significant”), the analysis should take into account differences in relevant environmental standards and transparently explain how they were reflected in the applied assessment approach.

- (c) Proposed mitigation and monitoring measures can be realistically implemented in the affected Party.

While proposing measures to prevent, minimize or monitor residual impacts of the project that are expected to take place on the territory of the affected Party, the EIA must credibly address practical issues arising from the fact that institutions responsible for enforcing the project environmental compliance (fulfilling environmental conditions and measures resulting from the EIA) do not have authority in the affected Party (i.e. to verify its implementation and functionality).

Therefore, more than in a conventional EIA, the TEIA must provide a credible indication of a realistic arrangement for implementation (including covering the costs) of the proposed mitigation and monitoring measures, including an indication of institutional arrangements in the affected Party. Such a proposal should be sufficiently specific to be used during the transboundary consultations where Parties can, if necessary, pursue a formal international agreement concerning the long-term management of the project’s environmental impacts after the TEIA process is concluded.

2.1.4. EIA report dissemination and consultations between concerned Parties

International reference

In accordance with the provisions of the Convention, the Party of origin must provide an opportunity for the public in the areas likely to be affected to participate in EIA procedures regarding proposed activities. It shall ensure that the opportunity provided to the public of the affected Party is equivalent to that provided to the public of the Party of origin (art. 2.6).

Both Parties shall ensure that the public of the affected Party in the areas likely to be affected be informed of and be provided with possibilities for making comments or objections on the proposed activity, and for the transmittal of these comments or objections to the competent authority of the Party of origin, either directly to this authority or, where appropriate, through the Party of origin (art. 3.8).

Both Parties shall arrange for the distribution of the documentation to the authorities and the public of the affected Party in the areas likely to be affected and for the submission of comments to the competent authority of the Party of origin, either directly to this authority or, where appropriate, through the Party of origin within a reasonable time before the final decision is taken on the proposed activity (art. 4.2).

National requirements

Initiator

1. Submit the EIA report to the Environmental Agency for evaluation of the quality.
2. Arrange to translate relevant parts of the EIA report concerning transboundary impacts to the language agreed with the affected Party.
3. In coordination with Environmental Agency, organize a public hearing (s) in accordance with article 10 of the EIA Law, which shall take place on the territory of the local public administration authority on whose territory the planned activity is expected to be carried out.
4. Ensure appropriate interpretation services during public hearings if foreign citizens are participating in these.

Environmental Agency and Ministry of Environment

1. If the report is prepared according to the requirements and contains the information in full, then the Environmental Agency will place the report online as well as send the report to the Technical Commission and the local public administration authorities within whose scope the planned activity is expected to be implemented.
2. The Ministry of Environment shall submit to the competent authority of the affected Party the EIA report in the language established by mutual agreement with the affected Party within 15 working days of receipt of the translated copy from the Environmental Agency.
3. The Ministry of Environment initiates transboundary consultation with the competent authority of the affected Party to:
 - (a) based on the EIA report, consult on the potential transboundary impacts of the planned activity and measures for their prevention or mitigation;
 - (b) agree on a detailed arrangement for public consultations, including public hearing(s).
4. Coordinate with the initiator in the organization of public hearing(s) with respect to the possible participation of the representatives of the affected Party.

Practical advice

After preparation of the EIA documentation, the Party of origin, without undue delay, should conduct consultations with the affected Party based on the documentation regarding the likely transboundary impact of the proposed activity and measures to mitigate or eliminate the impacts (art. 5 of the Convention). The consultations may address issues such as the following:

- (a) types of transboundary impacts of a project;
- (b) methods through which the impacts have been identified;
- (c) measures of mitigation of impacts and forms of assistance in that process;
- (d) shared and individual actions and responsibilities each Party will take to monitor, reduce and prevent the impacts;
- (e) possible ways of cooperation and mitigation in case of accidents;
- (f) post-project analysis;
- (g) possible alternatives to the proposed activity and any other appropriate measures.

If possible, consultations should take place at a sufficiently high level in order to ensure adequate reflection of the results of the consultations in the follow-up decision-making. The participation of the technical experts is nevertheless crucial for effectively discussing substantive aspects of the EIA report and related matters. Therefore, in addition to the representatives of the competent authorities of both Parties, the initiator and the experts involved in preparing the EIA report should all be included in the formal transboundary consultations.

In terms of ensuring proper public participation in the TEIA, the Parties should agree on the procedural details of public participation early on when making an arrangement for the entire procedure of a TEIA (see section 2.1.2 above on Notification).

In principle, the Parties may choose between the three possible options in organizing public participation in the TEIA (UNECE. 2006a):

1. The responsibility of public participation is with an affected Party; therefore, the public of the affected Party is notified, and the comments are collected by the competent authority of an affected Party or its point of contact and then submitted to a Party of origin (i.e. Moldova),
2. The responsibility of public participation is with a Party of origin; therefore public of an affected Party is notified, and the comments are collected by the competent authority of a Party of origin (i.e. Moldova),
3. Mixed responsibility – Parties are jointly involved in notifying the public and collecting their comments on an affected Party.

Concerning the quality control of the EIA report, for the EIA implemented in a transboundary context where Moldova is the Party of origin, and the domestic EIA procedure is applied, the EIA report quality assessment can proceed as per the national legislation and opinions related to the EIA report quality received from the potentially affected Party through TEIA consultations can be taken into account either directly by the Technical Commission, or separately by the competent authority (Environmental Agency) when preparing the concluding Environmental Agreement.

2.1.5. Taking EIA results into account in decision-making

International reference

For the purpose of the Convention, final decisions in relation to the TEIAs are limited to those decisions that, in real terms, set the environmental conditions for implementing the activity.¹⁶ The Party of origin should provide the affected Party with the final decision along with reasons and considerations on which it was based (art. 6.2 of the Convention).

As per article 6.3. of the Convention, if additional information on the significant transboundary impact of a proposed activity, which was not available at the time a decision was made with respect to that activity and which could have materially affected the decision, becomes available to any of the Parties before work on that activity commences, that Party must immediately inform the other concerned Party or Parties. If one of the concerned Parties so requests, consultations must be held on whether the decision needs to be revised.

National requirements

Initiator

1. Is responsible for the fulfilment of the provisions and observance of the conditions stipulated in the environmental agreement.

Environmental Agency /Ministry of Environment

1. Issues the Environmental Agreement as per art. 10⁵ of Law 86/2014 on EIA taking into account results from the public participation and conclusion of the transboundary consultations with the affected Party.

¹⁶ UNECE report of the meeting of Parties to the Convention on EIA in a Transboundary Context, May 2008 (ECE/MPEIA/10, decision IV/2, annex I, para. 61).

2. Sends the translated environmental agreement to the Ministry of Environment within 15 working days from the date of receipt of the environmental agreement translated according to para. 1 transmit this agreement to the competent authority of the affected Party through diplomatic channels.

Practical advice

The outcomes of the TEIA are summed up in the Environmental Agreement issued by the Environmental Agency. Coordinated procedures of a TEIA should guarantee that the Environmental Agreement reflects a consensus between the Parties. It is for these reasons that the final development approval should take due account of the outcomes of the TEIA, including the EIA report, the comments thereon, and the outcomes of the consultations.¹⁷

Moldova is not obliged to fully accept the proposals, requests, or comments received from an affected Party. However, the authorities in Moldova should treat them equally, irrespective of national boundaries, and demonstrate that it has taken those comments into consideration when formulating Environmental Agreement. This will legitimize the final decision (development approval) and ensures an effective collaboration of the Parties at the implementation stage.¹⁸

As indicated above, both the Environmental Agreement by the Environmental Agency and final development approval of the planned activity (i.e. permit, license) by the respective approving authority shall be communicated to the competent authority of the affected Party.

In this respect, it is important to note that without the affirmative Environmental Agreement, a proposed activity cannot be implemented as much as without the non-environmental permits. Therefore, it is important that the affected Party is informed that a proposed project has received all the permits, licenses, and decisions and is moving to the implementation stage.

Law 86/2014 on the EIA indicates that the initiator is responsible for the expenses incurred in the TEIA procedure, respectively these expenses are reflected including the additional information required to be presented to the affected Party, such as the operating authorization, the necessary license, in the event that the planned activity requires the presence of a license, and other permissive acts apart from the average agreement.

In the situation when additional information emerges on the significant transboundary impact of a proposed activity, which was not available at the time a development approval was made, the Environmental Agency shall notify the affected Party about the information bringing material changes to a decision regardless of the type of domestic procedure it will decide to follow (e.g. whether to undertake new EIA or revise conditions of the Environmental Agreement or of the development approval (permit). Depending on the response of the affected Party, the Parties may start consultations concerning the necessity for a new TEIA as a consequence of the revision of the development approval or other forms of response.

2.1.6. Post-project analysis and monitoring

International reference

According to article 7 of the Convention, the concerned Parties, at the request of any such Party, shall determine whether, and if so, to what extent, a post-project analysis shall be carried out, taking into account the likely significant adverse transboundary impact of the activity for which a TEIA has been conducted. Any post-project analysis undertaken shall include, in particular, the surveillance of the activity and the determination of any adverse transboundary impact.

When, as a result of post-project analysis, the Party of origin or the affected Party has reasonable grounds for concluding that there is a significant adverse transboundary impact or factors have been discovered that may result in such an impact, it shall immediately inform the other Party. The concerned Parties shall then consult on necessary measures to reduce or eliminate the impact.

¹⁷ EU Guidance on the Application of the Environmental Impact Assessment Procedure for Large-scale Transboundary Projects. Available at <https://ec.europa.eu/environment/eia/pdf/Transboundary%20EIA%20Guide.pdf>

¹⁸ More on this see at <https://www.unece.org/environmental-policy/conventions/environmental-assessment/outputs/guidance-on-the-practical-application-of-the-espoo-convention/practical-solution-in-applying-the-espoo-convention.html#consultations%22>

National requirements

Initiator

1. Carries out post-project analysis in line with the conditions stipulated in the Environmental Agreement
2. Submits the results of the monitoring to the Environmental Agency
3. In coordination with the Environmental Agency, implement as needed additional measures and actions to prevent, avoid, mitigate, compensate, and control the impact of the planned activity on the environment and human health.

Environmental Agency

1. Supervise the implementation of the post-project monitoring following the conditions stipulated in the Environmental Agreement.
2. Places the post-project analysis report received from the initiator on its official web page and inform the Environmental Protection Inspectorate about the need to carry out environmental control at the site to establish compliance.

The Law 86/2014 on EIA in Moldova does not contain provisions related to the situation concerning article 7 of the Convention (see above), i.e. it does not require notification of the affected Party or sharing results of the post-project analysis and monitoring.

Practical advice

The Espoo Convention contains a provision for post-project analysis that allows the Parties to cooperate also during the project implementation phase. This post-project analysis is not a mandatory activity and is implemented by a voluntary commitment of the Parties. Such arrangement may be agreed upon during the formal transboundary consultations, where the Parties may decide to implement a post-project analysis, including monitoring compliance with regulations and mitigation measures or verifying actual environmental impacts and the effectiveness of the mitigation.

Such agreement must be explicit in determining the responsibilities of each Party in monitoring and analysing the project's impacts. They can agree, for example, that each Party monitors, assesses, and analyses the data on impacts occurring on its territory and then transfers the results to the other Party regularly (e.g. quarterly).

At a minimum, it is recommended to establish a mechanism for sharing the results of monitoring performed by the initiator (when such obligation arises from the Environmental Agreement).

2.2. Moldova as a potentially affected Party

2.2.1. Determination of whether a TEIA is required (if no notification is received)

International reference

According to article 3.7 of the Convention, a potentially affected Party can request information on a proposed activity for the purposes of holding discussions on whether there is likely to be a significant adverse transboundary impact even when it has not received a notification. Parties then can agree whether the provisions of the Convention apply and transboundary EIA shall take place.

National requirements

Article 16, para. 6 of the EIA Law reflects the provisions of the Espoo Convention. If Moldova considers it will be affected as a result of a significant negative impact of the activity planned by the Party of origin but has not received a notification from the latter in this regard, the Ministry of Environment shall initiate consultations on the transboundary impact with the Party of origin. If the Parties do not agree on the settlement of this matter, the Ministry of Environment can submit the case for examination to the Commission of inquiry in accordance with Annex no. IV to the Convention on environmental impact assessment in a transboundary context.

Practical advice

Once Moldova becomes aware of activities planned in a neighbouring Party that may have significant negative transboundary impacts (e.g. by means of informal communication, media reporting, NGO campaign), the Ministry of Environment (in cooperation with the Environmental Agency) shall contact the competent authority of the Party of origin and to request information about a proposed project.

The request can be structured according to the template for notification and shall concern, namely:

- 1) the nature of the proposed activity
- 2) the spatial and temporal boundaries of the proposed activity
- 3) expected environmental impacts and other aspects of a proposed activity
- 4) information on the EIA process that will be applied to the proposed activity (if any).

Following the reaction of the Party of origin (or lack thereof), Moldova can decide whether or not to initiate formal consultations as per the Espoo Convention, or it may conclude that TEIA is not necessary for a given case. In case the Party of origin refuses to submit the information or remains unresponsive, Moldova may refer the matter to the compliance and implementation committee of the Espoo Convention.

2.2.2. Notification (response to notification)

International reference

When receiving a notification from the Party of origin, the potentially affected Party should always respond within the time specified by the Party of origin, even if it does not intend to participate in TEIA in a given case. The Party of origin can then proceed in planning the national EIA process without delay (Guidance on the practical application of the Espoo Convention. UNECE, 2006).

National requirements

Environmental Agency/Ministry of Environment

1. The Ministry of Environment, within five working days of receiving the notification and information, shall place them on its official web page and forward them to the Environmental Agency.
2. The Environmental Agency, within the term established in the notification, decides on participation or non-participation in the environmental impact assessment procedure, taking into account the opinion of the interested central public administration authorities, of the local public administration authorities in the territory that could be subject to cross-border impact and the interested public. Within five working days, the Environmental Agency places the notification on its official website, indicating the period for submission of comments and proposals.
3. If the Environmental Agency decides to participate in the environmental impact assessment procedure in a cross-border context, the Ministry of Environment informs in writing, through diplomatic channels, the competent authority of the Party of origin about the decision taken and proposes the holding of initial consultations to establish the methods, deadlines and other aspects related to carrying out

the environmental impact assessment procedure in transboundary context according to article 12, paragraph 7. The Environmental Agency places the information about the decision taken on its official web page.

4. If the Environmental Agency has decided not to participate in the environmental impact assessment procedure in a transboundary context, the Ministry of Environment informs the competent authority of the Party of origin in writing about the decision taken and places that information on its official website.

Depending on the level of detail of available information, the answer to the notification may contain a brief statement on potentially affected environment components (e.g. vulnerable ecosystems, rare flora and fauna species, endangered species, cultural and natural monuments, other objects that may be affected as a result of implementing the planned activity) on the territory of Moldova or an indication of other concerns and issues that shall be subject of the mutual consultations. The structure of the response to the notification is provided in annex No. 6 of the Law on EIA.

Practical advice

If the competent authority finds that the time limit for the response to the notification set by a Party of origin is insufficient for deciding on its participation in the TEIA (i.e. due to the scale and complexity of the planned activity or the necessity to consult other stakeholders within Moldova), then Moldova can request an extension for the response to the notification.

While preparing the response to the notification, the Environmental Agency shall consult the local authorities of the area likely to be affected by a transboundary impact of the proposed activity and any other relevant national authority to ensure that information provided in the notification is thoroughly considered and the decision on whether to accept the invitation to the TEIA is well justified (i.e. a genuine concern exists that the planned activity can cause significant environmental impacts on the territory of Moldova).

The decision can be assisted by applying the approach for the identification of potential transboundary impacts and determining their significance as in the case of domestic planned activities where Moldova is the Party of origin (see Section "3.1.1. Determination of whether a transboundary EIA is Required" above).

It is within the discretion of the competent authority of the Party of origin to determine the substance and the volume of the required EIA documentation in line with the national legislation. Therefore, it is in Moldova's interest to clarify through the consultations with the competent authority of the Party of origin as early as possible the procedural aspects of the EIA, namely, to identify suitable arrangements for supplying the EIA process with the information relevant to the assessment of the transboundary impacts. This can be reflected in the following questions:

- Whether the process will allow for considering Moldova's comments already during the Scoping phase or only later when the EIA documentation will be formally submitted for the transboundary consultation?
- How will the EIA consultant collect baseline information and other data about the concerned potentially affected territory in Moldova, and what assistance can be provided in this regard by the Moldova authorities?
- How will be ensured adequate public participation in the potentially affected territory in Moldova, including translation of the relevant documents into the language accessible to the concerned public?

2.2.3. Conducting the EIA and preparation of the EIA report

Neither the Espoo Convention nor other applicable norms attribute any responsibility to the affected Party in terms of direct participation or contribution to the development of the EIA report (carrying out the impact assessment). The responsibilities are with the Party of origin and, in practical terms, with the project initiator and by the initiator commissioned experts (EIA consultant).

Practical advice

The initial phase of the transboundary consultations (i.e. in the follow-up of the notification step) is also to determine whether stakeholders in Moldova shall be involved in the actual work on impact assessment and participating in the EIA report elaboration. Typically, the EIA report is prepared by a consultant commissioned by the project initiator, and there is little interaction between the EIA consultant and institutional stakeholders in the affected Party in the phase of EIA report preparation. Still, there are situations and tasks where Moldova could assist the process. Namely, collecting the baseline information about the potentially affected part of the Moldova territory can be challenging for a consultant based in the Party of origin. If requested, Moldova can meaningfully help, namely in the following aspects:

- provide the consultant with available data (e.g. GIS maps and other environmental data related to the potentially affected territory),
- provide relevant documents that shall be taken into account by the EIA consultant,
- provide information on Moldova stakeholders that should be consulted (e.g. to provide expert opinion or local knowledge on certain issues).

Assist with communication and access to the EIA consultant team to the potentially affected territory (e.g. to enable a visit of a potentially affected border area by a biologist and the like).

The scope, timing, and other conditions for such assistance shall be established during the initial consultations. Moldova is not obligated to contribute to the work of the EIA consultant, but it is rational to provide assistance to any reasonable effort to analyse baseline conditions and assess potential impacts on Moldova territory and thus ensure good quality EIA report.

2.2.4. EIA report dissemination and consultations between concerned Parties

International reference

According to the Espoo Convention, both Parties shall ensure that the public of the affected Party in the areas likely to be affected be informed of and be provided with possibilities for making comments or objections on the proposed activity, and for the transmittal of these comments or objections to the competent authority of the Party of origin, either directly to this authority or, where appropriate, through the Party of origin (art. 3.8).

Both Parties shall arrange for the distribution of the documentation to the authorities and the public of the affected Party in the areas likely to be affected and for the submission of comments to the competent authority of the Party of origin, either directly to this authority or, where appropriate, through the Party of origin within a reasonable time before the final decision is taken on the proposed activity (art. 4.2).

National requirements

Initiator

1. If agreed in transboundary consultation between the Parties, the initiator carries out public consultations (public hearing) in the potentially affected territory in Moldova, in cooperation with Environmental Agency and relevant local public administration authorities, in a manner compliant with the Moldova Law on EIA.

Ministry of Environment/Environmental Agency

1. The Ministry of Environment receives the EIA report from the Party of origin (confirming receipt) and, within five working days from the date of receipt of the report, forwards it to the Environmental Agency
2. The Environmental Agency places on its official web page the report on the environmental impact assessment and presents it to the interested central public administration authorities and to the

local public administration authorities in the potentially affected areas, indicating the deadlines for submitting comments

3. The Environmental Agency facilitates public consultations in a manner agreed upon with the Party of origin during the initial cross-border consultations (for example, either by assisting the initiator in conducting public debates in Moldova or by disseminating information on behalf of the initiator to allow the Moldovan public to obtain full relevant information).
4. Likewise, the Environmental Agency will collect the comments and recommendations from the Parties involved (including the public) and draw up the opinion on the report, but will also place it on its official web page and send it to the Ministry of Environment.
5. The Ministry of Environment transmits to the competent authority of the Party of origin, through diplomatic channels, the translated opinion on the environmental impact assessment report.

Local public administration authorities

1. Post the environmental impact assessment information (EIA report) in hard copy in a place accessible to the public and inform the public and the Environmental Agency about it.
2. In cooperation with the Environmental Agency, facilitate the public consultation (public hearing) in the potentially affected territory.
3. The authorities involved in the consultation process of the environmental impact assessment report, as well as the interested public, submit their comments to the Environmental Agency within the stipulated time limits.

Practical advice

Law 86/2014 on EIA does not detail the procedure for public consultations of the EIA documentation received abroad in the transboundary EIA process. The details of the public consultations shall be therefore agreed upon between Parties during the transboundary consultations. Namely, the role of the initiator (if any) in the public consultations carried out in Moldova shall be specified, and understanding shall be reached regarding, for example, sharing the costs associated with the public hearing.

The hearing(s) should be facilitated by the competent authority and the local self-governing bodies of the affected community(ies) as in a standard public consultation required by Law 86/2014 on EIA, ideally with the participation of the representatives of the Party of origin, including the initiator (EIA consultant – author of the EIA report).

The results of public consultations (including minutes from the public hearing) in Moldova should be documented in the same way as in the case of a standard EIA process as per the national EIA Law. Together with any other comments and opinions received by the Environmental Authority, the results of the public consultations form a basis for the Environmental Authority to prepare a comprehensive opinion on the EIA report (namely, the official position of Moldova on the project and its EIA). The deadline and form of the transmission of the comprehensive opinion to the Party of origin shall be established early on during the transboundary consultations in order to provide Moldova with reasonable time for domestic consultations and for the Party of origin to be able to receive and consider Moldova's comprehensive opinion before the final decision on the project is taken in the Party of origin.

There is no established formal procedure for EIA quality control in the transboundary context. However, in the situation when Moldova participates in the TEIA as the affected Party — that is, when the EIA report received through the TEIA consultations is a subject of comments by Moldova stakeholders — Moldova is free to conduct any form of quality review of the received EIA report. It is therefore recommended to address this issue already during the early phase of the transboundary consultations; namely, to agree on a reasonable timeframe that would provide sufficient time for Moldova to carry out the EIA report quality review in the manner of its choosing.



2.2.5. Taking EIA results into account in decision-making

The transboundary EIA does not grant Moldova, as an affected Party, any authority related to the decision-making on a project located in the Party of origin. However, Moldova has the right to be informed whether and when the concerned project was given final development approval (e.g. construction permit) and how the results of the transboundary EIA were taken into account.

2.2.6. Post-project analysis

The post-project analysis is not considered mandatory by the Convention and is implemented by a voluntary commitment of the Parties (see section 2.1.6 above).

For Moldova in a position of an affected Party, it is important to ensure that all agreed mitigation measures and monitoring systems are implemented and operational, with desired effects on the concerned territory in the Republic.

If the TEIA resulted in agreement on a post-project analysis (i.e. follow-up monitoring of certain environmental indicators) on Moldova's territory, any such arrangement should also include agreement on sharing the costs. Also, where relevant, an indication of specific threshold values, which would trigger further responsive action shall be part of any such monitoring system (e.g. for a hypothetical project of an upstream hydro plant, the condition can be formulated as follows: when a sediment load in the transboundary river changes on Moldova's territory by more than 15% in comparison with the baseline established in TEIA, Moldova is entitled to initiate a re-negotiation of the related dam operational rules).

Such agreement must be clear in determining the responsibilities of each Party in monitoring and analysing the project's impacts. They can agree, for example, that each Party monitors, assesses, and analyses the data on impacts occurring on its territory and then transfers the results to the other Party regularly (e.g. quarterly).

At a minimum, it is recommended to establish a mechanism for sharing the results of monitoring performed by the initiator (when such obligation arises from the Environmental Agreement or equivalent decision in the Party of origin).



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