

Albania

Overview of EIA system

November 2002

*Elaborated within the REReP 1.4 project
EIA Capacity-Building in South Eastern Europe*

Funded by the European Union's Phare Programmes

Prepared by
Entela Cobani
Elvana Cani
Alma Bako



THE REGIONAL ENVIRONMENTAL CENTER
for Central and Eastern Europe

About the REC

The Regional Environmental Center for Central and Eastern Europe (REC) is a non-partisan, non-advocacy, not-for-profit organisation with a mission to assist in solving environmental problems in Central and Eastern Europe (CEE). The Center fulfils this mission by encouraging cooperation among non-governmental organisations, governments, businesses and other environmental stakeholders, by supporting the free exchange of information and by promoting public participation in environmental decision-making.

The REC was established in 1990 by the United States, the European Commission and Hungary. Today, the REC is legally based on a Charter signed by the governments of 27 countries and the European Commission, and on an International Agreement with the Government of Hungary. The REC has its headquarters in Szentendre, Hungary, and local offices in each of its 15 beneficiary CEE countries which are: Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Estonia, Hungary, Latvia, Lithuania, FYR Macedonia, Poland, Romania, Serbia and Montenegro, Slovakia and Slovenia.

Recent donors are the European Commission and the governments of Albania, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Italy, Japan, Latvia, Lithuania, the Netherlands, Poland, Serbia and Montenegro, Slovenia, Sweden, Switzerland, the United Kingdom and the United States, as well as other inter-governmental and private institutions.

The entire contents of this publication are copyright
©2003 The Regional Environmental Center for Central and Eastern Europe

No part of this publication may be sold in any form or reproduced for sale
without prior written permission of the copyright holder

ISBN: 963 9424 307

Published by:
The Regional Environmental Center for Central and Eastern Europe
Ady Endre ut 9-11, 2000 Szentendre, Hungary
Tel: (36-26) 504-000, Fax: (36-26) 311-294, E-mail: info@rec.org, Website: www.rec.org

Printed in Hungary by ProTertia

This and all REC publications are printed on recycled paper or paper produced
without the use of chlorine or chlorine-based chemicals

The views of the authors in this publication do not necessarily reflect the views of relevant governmental organisations or the Regional Environmental Center of Central and Eastern Europe. The presentations of national studies and best practice cases are the opinion of the national experts.

General Information	5
Important factors to consider when introducing a national EIA system	5
Brief descriptions of legal acts, regulations and other provisions concerning EIA in Albania	5
New and planned environmental requirements relevant to EIAs	6
Implementation of Council Directive 97/11/EC	7
Flow-charts of the EIA process	8
Administrative arrangements and procedures for coordinating EIA within or between jurisdictions	10
Major players in the EIA process	10
Range and level of professional, educational, technical skills available within a country to support the EIA process	10
EIA training and capacity-building programmes present in Albania	11
Environmental Impact Assessment (EIA)	13
Links between EIAs and consent for development	13
Types of consent that require the EIA procedure to be carried out prior to issuance	13
Outcomes of the EIA process and their effect on the consent process	13
Other needed types of non-EIA analyses and permits	13
Screening	13
Which authority determines whether a project presented by a developer requires an EIA?	13
How is EIA determined to be necessary for a project?	13
Who is consulted during the decision-making process?	13
How many EIAs are carried out per year?	14
Defining the contents of an EIA report	14
Is there a requirement to prepare an EIA report for all activities that are subject to the EIA process?	14
Are there any legal requirements for the contents of an EIA report?	14
May competent authorities specify the exact contents of an EIA report?	15
Is it required to have any accreditation to prepare an EIA report?	15
Is it compulsory to analyse project alternatives?	15
Can competent authorities require that certain project alternatives are evaluated within an EIA report?	15
Who must be consulted when defining the contents of an EIA report?	15
Reviewing an EIA report	16
Who are the competent authorities responsible for reviewing an EIA report?	16
Who actually carries out the review?	16
Who must be consulted during the review of an EIA report?	16
Which bodies ensure quality of and/or verify EIA reports?	17

EIA post-monitoring and analysis	17
Is there any special requirement to plan post-EIA monitoring as a part of the EIA report?	17
Can a competent authority require other analyses on the basis of the EIA process?	17
ESPOO Convention	19
Which legal procedures have been established in Albania to incorporate requirements of the ESPOO Convention?	19
Which authority determines whether a project requires a transboundary EIA?	19
How are transboundary EIAs determined for projects?	19
How many transboundary EIAs have been carried out so far?	19
Are likely transboundary impacts assessed as part of a standard EIA report, or is special documentation required?	19
Are provisions for consultations between concerned parties being determined through bilateral agreements with neighbouring countries?	19
Strategic Environmental Assessment (SEA)	21
Application of Environmental Assessment to Plans/Programmes/Policies	21
What types of plans, programmes or policies within the spatial planning and other sectors require some sort of environmental assessment?	21
Defining the contents of an SEA report	21
Reviewing an SEA report	21

General Information

Important factors to consider when introducing a national EIA system

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

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

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

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

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

EIA procedure is explained in Chapter II of Law on Environmental Protection (No. 7664 of January 21, 1993), albeit not very clearly. The types of projects in need of EIAs are not listed. Article 7 of the law states: "...[A]ll the activities of natural and legal persons native or foreign, who exercise their activities in the territory of the Republic of Albania, shall be subject to environmental impact assessments.

Article 8 states that an EIA shall be required for: national or local programmes, spatial plans and urban-development plans, as well as their amendments; projects and activities that have strong environmental impact and are particularly dangerous to human health; projects for reconstruction and enlargement of activities referred to in this article; and, specific projects and local activities specifically identified by local authorities.

Article 10 provides competence to the National Environmental Agency (NEA¹) in charge with determining the projects and activities requiring EIA, according to the Article 8 of the law. Assessments shall be made periodically (at least once every five years) by order of the Chairman of NEA.

Article 9 stipulates that the NEA and its regional agencies are the competent authorities that, under this law, may require an EIA. In each case the abovementioned authorities will designate experts and/or institutions in charge of performing an EIA. They will be compensated according to rules established by the NEA head.

Article 13 states that an EIA shall be performed by relevant field experts who: have professional competence; are independent and have no contractual bonds with project investors or operators, and are not involved with related activities; and, provide conclusions that comply with established EIA procedures and admissible norms and standards of environmental protection.

According to Article 12, regarding public involvement, concerned natural and legal persons shall have the right to participate in the consideration of EIA results. They shall be informed by national or local mass media or other appropriate means about EIA procedures, not later than one month prior to implementation of the EIA process.

Article 14 provides a somewhat confusing description of the duties and responsibilities of experts and developers. The article says that: natural or legal persons and persons responsible for projects referred to in Article 8 are required to provide the following documentation before beginning an environmental impact assessment:

- description of the project and activity, as well as its location and capacity;

- description of existing environmental conditions in relation to the project or activity prior to its implementation;
- prognosis of project impact on the environment;
- description of measures taken to prevent and prohibit adverse effects on the environment;
- identification of natural and legal persons that might be affected by environmental pollution and damage;
- conclusions; and
- any other documents deemed necessary by the NEA.

Articles 15 and 16 are more or less inadequate and, like Article 14, require significant amendment. Namely, they do not spell out EIA process results, final decision-making and penalties in enough detail. They state that the competent body under this law, based on experts' conclusions, shall render a final decision about the EIA by taking either of the following measures:

- total or partial prohibition or discontinuance of the activity of natural and legal persons and of the implementation of projects when there is a negative impact on the environment; or
- prohibition of the continuance of the assessment procedure if the project has an adverse affect on the environment.

The competent body shall make its decision known to the parties concerned or, if appropriate, shall provide information to the public.

Article 16 states that EIA costs in situations when the EIA is negative shall be borne by the natural or legal persons who are responsible for environmental pollution and damage. The order issued by the relevant competent body for payment of EIA expenses is final.

The law does not state that the developer is responsible for the EIA process and the preparation of EIA report. This law does not provide a specific procedure with which to complete the EIA process, nor does it provide time schedule's for EIA preparation or reaching final decisions.

New and planned environmental requirements relevant to EIAs

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

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

- New Draft Law on Environmental Protection;
- Draft Law on Protected Areas;
- Draft Law on Nature Protection and Biodiversity;
- Law on the Protection of the Marine Environment from Damage and Pollution;
- Draft Law on Air Protection;
- Draft Law on EIA;
- Draft Law on Environmental Management of Solid Wastes;
- Draft Law on Water Environmental Management;
- Draft Law on Liquid Discharges; and
- Air Pollution Standards.

The following laws have been approved recently:

- Law on Environmental Protection;
- Law on Protected Areas;
- Law on the Protection of the Marine Environment from Damage and Pollution;
- Law on Air Protection;
- Decision of the Council of Ministers on Air Emission Standards.

The Draft Law on Environmental Management of Solid Wastes and the Draft EIA Law are both awaiting approval by Parliament.

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

Implementation of Council Directive 97/11/EC

Council Directive 97/11/EC is implemented in both the new Law on Environmental Protection and the Draft EIA Law – the latter of which is awaiting approval by the Albanian Parliament.

Comment on the new Law on Environment

The foundation (including the format and content) of the new Law on Environment is Law No. 7664 of January 21, 1993 on Environmental Protection; amended by Law No. 8364 of July 2, 1998. The EIA chapter has been completely revised. All the terms and concepts are in compliance with the EC Directive on EIAs. It should be mentioned that the EIA chapter lays out the conceptual part of the process, while the Draft EIA Law lays out the procedural part.

The chapter on the EIA process is brief, but states correctly that this process is the responsibility of the developer. Public participation and local government each play principal roles in the process.

This chapter's articles pave the way for the new Draft EIA Law, which regulates the administrative part of the process. This law initiates the SEA process regarding policies, plans and programmes. The law also grants rights to objections and court appeals against final decisions of the MoE on proposed projects and EIA analyses.

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

- an environmental statement (declaration) issued by the MoE;
- environmental authorisation issued by the MoE/Regional Environmental Authority (REA); and
- an agreement issued by the REA.

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

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

Comment on the Draft EIA Law

Council Directive 97/11/EC is fully implemented in the new Draft EIA Law.

The new Draft EIA Law determines that group of projects which needs either a full or a partial EIA, and also lists the criteria by which projects are selected. (Project lists identified within the law are contained in Annexes 1 and 2.)

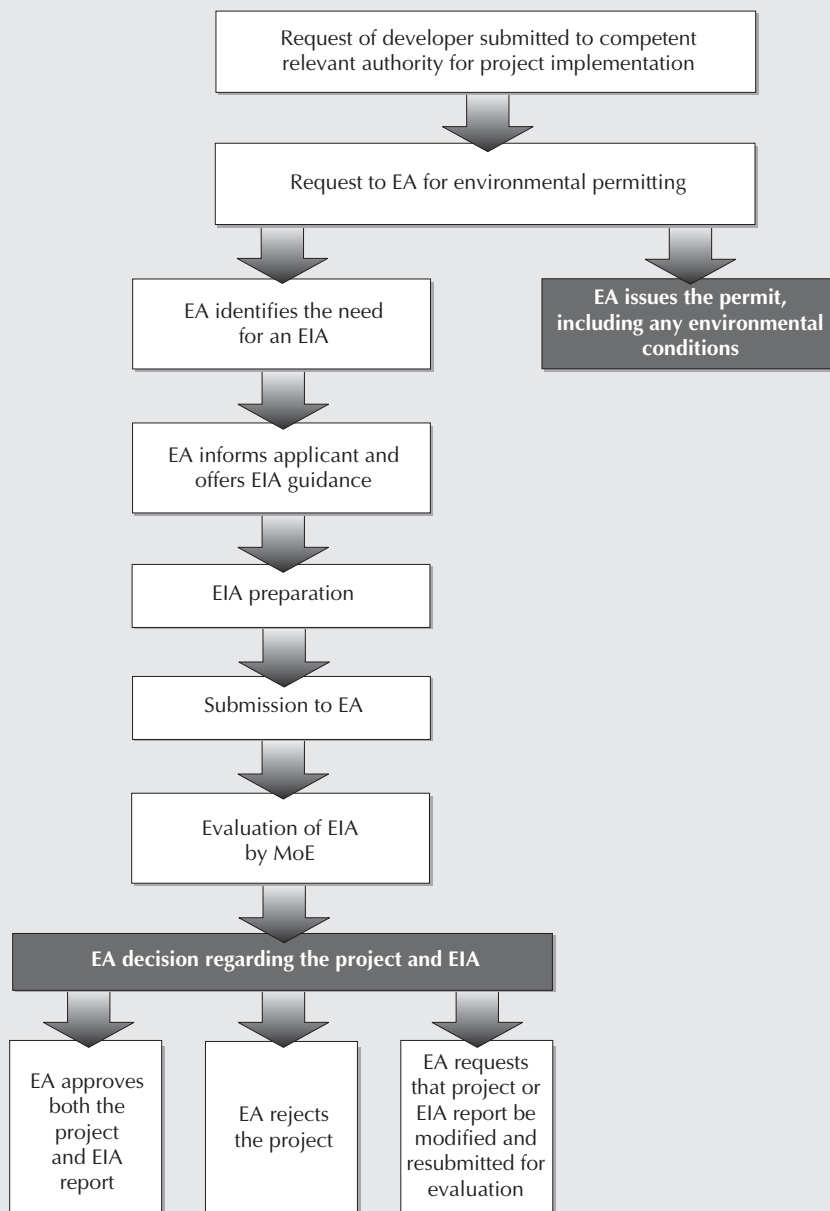
An environmental statement accompanies environmental authorisation, in addition to content requirements and conditions for both the developer and relevant governmental authorities.

The new draft provides a timetable for the process, developer rights and duties, public participation, NGOs and GOs. It also determines the position of REAs within this process.

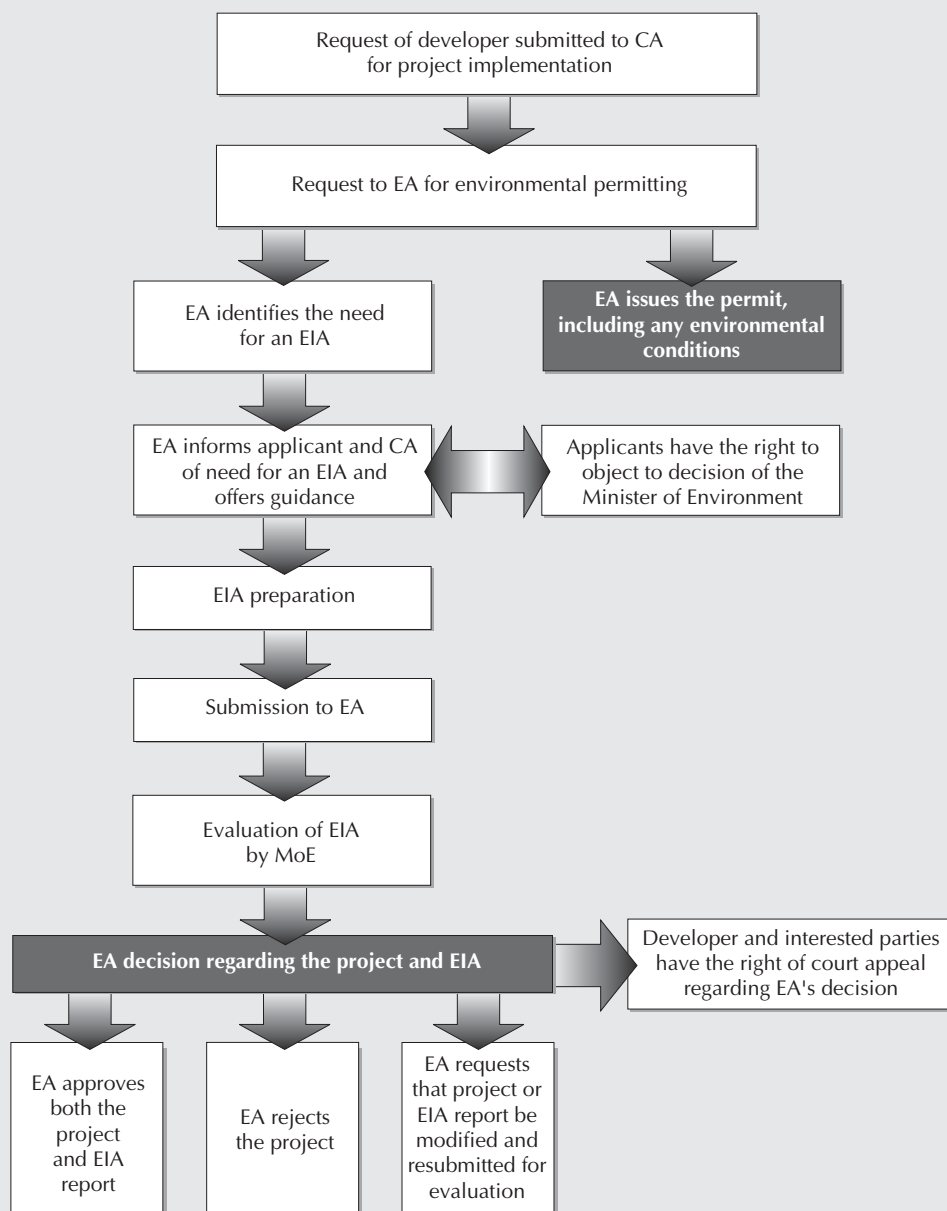
This draft introduces and implements the SEA process through the same procedure as those projects listed in Annex 1 that require a full EIA.

Flow-charts of the EIA process

Present status (September 2002)



New proposal



EA - Environmental Authority (regional environment agencies and/or MoE)

CA - Competent Authority (authorities competent to entitle the developer to proceed with the project)

Administrative arrangements and procedures for coordinating EIA within or between jurisdictions

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

The establishment in May 2001 of the new Directorate of Environmental Impact Assessment and Information is also significant. Main responsibilities of this body include implementation of EIA and environmental permitting, inspection and enforcement of environmental laws and standards, and monitoring the activities of regional environmental agencies. Since two of the main EIA Directorate activities are EIAs and permitting, cooperation with two of the Ministry's technical directorates (Management of Natural Resources and Biodiversity Directorate, and the Pollution Prevention and Control Directorate), in addition to the legal sector, is considered very important for carrying out these duties.

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

Duties such as guiding developers in preparing EIA reports, receiving EIA reports and other required documentation, reviewing EIA reports, inspection of areas proposed for development, and preparation of MoE opinions are the responsibility of regional environmental agencies, according to Law on Environmental Protection No. 7664 of January 21, 1993, amended by Law No. 8364 of July 2, 1998.

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

Major players in the EIA process

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

- environmental authorities and representatives at the local and regional levels responsible for setting up policies, legislation, permits, compliance and enforcements (The MoE is the central specialised body in the environmental field, along with its regional environment agencies who are dependent upon it. The MoE operates in close collaboration with several other ministries and institutions on specific EIA-related issues, such as the Ministry of Agriculture and Food, Ministry of Health, Ministry of Territorial Planning and Tourism, Ministry of Industry and Energy, Ministry of Transport and Telecommunication, as well as councils of communes, municipalities or districts and the relevant administrative units that, according to the Law on Environment Protection, inherit their rights and duties regarding environmental protection issues at national, communal and municipal levels.);
- developers, investors responsible for preparing proper applications, implementation of permitting conditions and self-monitoring of standards, etc; and
- consultants and experts that prepare EIA reports; =
- scientific and research institutions that conduct studies in the environmental field (Academy of Science, Research Institute of Chemical Studies, Institute of Biological Research, etc.); and
- NGOs that plays an important role in raising awareness, conservation and protection of natural and cultural values, etc. (There have been approximately 75 environmental NGOs established since 1991.)

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

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

At present, there is no accreditation system of EIA experts by the Ministry of the Environment. There is a draft prepared by the MoE, regarding the accreditation system of EIA experts and it has been sent to the Council of Ministers' for approval.

EIA training and capacity-building programmes present in Albania

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

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

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

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

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

- UNEP/PAP/RAC EIA training (1995);

- PHARE programme (1996) “Institutional Strengthening of NEA” for the improvement of permitting systems and procedures;
- METAP EIA institutional strengthening project (ongoing);
- DFID Project (2001 to 2003) in institutional strengthening, supporting the MoE; and
- REReP project on institutional strengthening of the MoE and its inspectorates – within REAs (ongoing).

Environmental Impact Assessment (EIA)

Links between EIAs and consent for development

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

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

There are other types of consent (such as construction and operating permits) that are needed in order to entitle a developer to proceed with a project.

According to new Law on Environmental Protection and Draft EIA Law, there will be four types of environmental consent to be issued: environmental declaration; environmental permit; approval; and authorisation. These are official documents that define conditions and circumstances under which approved activities will be developed.

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

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

Other needed types of non-EIA analyses and permits

The MoE through REAs issues all environmental permits for social and economic activities.

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

The responsible ministry issues construction and operating permits:

- The Ministry of Town Planning and Tourism or local government authorities issue construction permits.

- Operating permits are issued by the Ministry of Industry and Energy, Ministry of Agriculture and Food, Ministry of Health, etc. prior to execution of the project execution.

Screening

Which authority determines whether a project presented by a developer³ requires an EIA?

The MoE and its agencies (REAs) determine whether a development project requires an EIA.

Chapter III, Art. 6 of the Law on EIA states that the REA responsible for the region where a project will be implemented is responsible for determining whether or not the project requires an EIA.

How is EIA determined to be necessary for a project?

The MoE, based on the opinion of its staff, is responsible for deciding whether or not a development requires an EIA.

The draft Law on EIA, still awaiting approval from Parliament, includes a list of projects that is fully in compliance with Annex I of the EC Directive EC – with some changes made according to capacities and various country specifics.

There are two lists of projects determined for an EIA:

- Those projects which require a full EIA.
- Those projects which require a partial EIA.

REAs are the first reviewers of EIA reports, and they consult the lists of activities in reaching their decision as to whether a full or partial EIA is needed.

Who is consulted during the decision-making process?

In certain cases while applying for a building permit, developers are asked by REAs, other local-government offices, or at meetings of the Council of Territorial Management to apply for an environmental permit.

However, in such cases, REAs still make decisions as to whether or not the project requires an EIA.

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

Simplified and/or weak EIA reports have, until now, been regularly submitted and, for some small-scale projects, are often tolerated. The following authorities provide environmental licenses: the Council of Ministers (for activities described in paragraphs 'g' and 'gj'); and the MoE for other activities.

The permitting procedure is as follows:

Environmental licences are issued at the request of the natural or legal person, based on technical documentation and an analysis of the environmental impact presented by that legal entity.

REAs prepare their opinions upon first review of documentation and an onsite inspection. They then forward the request to the MoE.

Technical directorates of the MoE prepare the draft permit and then forward this to the Permitting Commission for discussion and decision-making. The Minister of Environment acts as chair of the Permitting Commission.

The license is granted within three months of the request and is valid from the time when the activity commences until there are any changes in the ecological conditions according to which the license is granted.

Competent relevant authorities may postpone the time of granting the license for up to six months if certain conditions are not satisfied. Authorities are obliged to grant or refuse permits within the aforementioned time schedule. Otherwise, the license is considered approved.

Environmental licenses become invalid if permitted activity does not commence within a period of one year of the time the license is granted, and a new license may then be required.

Competent relevant authorities may reconsider or revoke a licence if new and unknown ecological elements appear at the time the licence is granted, or if new environmental legislation is passed. If this is the case, the MoE, in cooperation with other ministries or institutions and taking into account the nature of the activity, shall define schedules within which all the above conditions for obtaining an environmental licence must be satisfied.

According to the legal framework in force, the Minister of Environment is in charge of establishing criteria for studies and EIA analyses presented by natural or legal persons applying for an environmental licence, as well as approving the procedure of granting licenses by relevant competent authorities.

Natural and legal persons who are granted environmental licences shall pay a licence fee as defined by the

Minister of Environment. The license fee is to be paid into the account of the authority granting the licence. Natural and legal persons who invest in the environmental field shall be exempted from this fee. The MoE, in collaboration with other relevant ministries and institutions, defines the investment list.

How many EIAs are carried out per year?

The number of applications for environmental licences has been growing since 1993, due not only to economic growth, but to increased state authority and, especially, stronger competency of the MoE authority.

On average, more than 350 licenses are prepared each year. These licenses span a breadth of different sectors, industries and services. For example, there have been about 100 licences granted to fuel wholesalers and about 45 to quarries. The MoE has approved a very detailed list of activities requiring an environmental permit.

Defining the contents of an EIA report

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

There are strict requirements to prepare an EIA report for all activities that are subject to the EIA process, as this is the main document providing the basis upon which the EA reaches its decision on a project.

These requirements are defined in the existing Environmental Law, but only in a very general way. The new Draft EIA Law, however (in the section regarding EIA report contents), provides precise requirements concerning both full- and partial-disclosure EIA reports.

Are there any legal requirements for the contents of an EIA report?

Existing legislation includes general specifications and legal requirements for the contents of an EIA report. The MoE has prepared a list of approved requirements as an internal document of the MoE and REAs.

The mandatory contents of the EIA report include:

- description of the project and activity, as well as its location and capacity;
- description of existing environmental conditions in relation to the project or activity prior to its implementation;

- prognosis of the project's impact on the environment;
- description of the measures taken to prevent and prohibit adverse effects on the environment;
- natural and legal persons that could be affected by environmental pollution and damage;
- other documents deemed necessary by the MoE; and
- conclusions.

It is obvious that these requirements are incomplete as far as they are open to subjective rulings and opinions of the MoE.

The new legislation provides legal requirements for EIA reports. Article 8 of Draft EIA Law determines the contents of a partial EIA report, and Article 9 determines the content of a full EIA report.

As it is mentioned above, the MoE will be responsible to develop the secondary legislation after the approval of the EIA Law and new Law on Environmental Protection. In connection with this, specific guidelines for particular types of projects are under preparation.

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

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

Is it required to have any accreditation to prepare an EIA report?

The MoE has identified accreditation in the preparation of an EIA report as one of its main priorities. EIA reports are being prepared by different experts all over the country, but until now, projects requiring environmental prepared permits have not been on a very large scale. There have been exceptions; notably, foreign experts prepared a few big projects for which EIA reports. The increasing numbers of activities and projects and their importance, however, have strengthened the need for accreditation in the preparation of these reports. This is why the Draft EIA law has more clearly defined the process of licensing natural or legal persons, in addition to calling for MoE field experts in the preparation of EIA reports.

No such accreditation of specialists is made by the EA. The MoE and REAs consult and advise developers in the selection of field specialists.

The gaps identified are related to insufficient capacities of EIA experts regarding the preparation of EIA reports. In most instances, they are many highly qualified technical experts in biology, chemistry, geology, etc. However, these experts need more time and capacity to become familiar with environmental issues – EIA in particular. Training courses in these areas will therefore make it easier to register and license EIA experts.

Is it compulsory to analyse project alternatives?

It is not compulsory to analyse project alternatives.

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

Competent authorities may require an evaluation of project alternatives within the EIA process. This has happened in only a limited number of cases, but is usually not applied because it is not required by any law or regulation.

Following the approval of the Draft EIA Law and other by-laws, competent authorities will henceforth require project alternatives to be evaluated within EIA reports.

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

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

The MoE has prepared a checklist regarding EIA/EIS contents based on the following:

- List A.1 (which is mandatory) is based on Schedule 3 of the “Town and Country Planning (an assessment of environmental effects) Regulation” from 1988.
- List A.2 (which is non-mandatory) is based on the EIA checklist from the DoE's (the Department of the Environment, Welsh Office) *Guidebook for Environmental Assessment: a guide to procedures*.

This checklist has been translated and distributed to all REAs and serves as general guidance for the contents of EIA reports. It is given to every developer that applies for an environmental permit. The MoE and REAs assist the developer in preparing the EIA Report, and they explain which elements of the general guide need to be

developed in depth, as well as those, which are not so much important according to specific activity and environmental impact.

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

Competent state and regional agencies (regional forestry offices, etc.) or municipal and communal authorities are consulted in the preparation of activity-specific EIA reports, even if official documents are required for approval of a proposed activity.

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

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

Reviewing an EIA report

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

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

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

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

Article 14 of the Draft EIA Law stipulates that: the REA, upon reviewing an EIA report, consults with local government authorities (urban and tourism development authorities) and proposes conditions for approval of the document.

The MoE has a permanent commission responsible for reviewing reports and the decision-making process.

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

Who actually carries out the review?

As mentioned earlier, REAs are first reviewers. They are responsible for reviewing EIA reports, checking whether or not everything is included in an application for an environmental permit, inspecting the area where the project is going to be developed, and preparing written comments for the MoE. The only documentation submitted to the MoE for further consideration is that which is complete and deemed to pose no significant problems.

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

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

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

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

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

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

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

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

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

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

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

EIA post-monitoring and analysis

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

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

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

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

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

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

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

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

ESPOO Convention

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

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

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

Which authority determines whether a project requires a transboundary EIA?

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

How are transboundary EIAs determined for projects?

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

How many transboundary EIAs have been carried out so far?

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

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

This consideration does not currently apply in Albania.

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

The Memorandum of Understanding between the Albanian NEA (the current MoE) and the MoE of the Former Yugoslav Republic of Macedonia was signed in 1996 at the governmental level and 2000 at the ministerial level within the framework of the Lake Ohrid Protection Project.

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

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

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

Strategic Environmental Assessment (SEA)

Application of Environmental Assessment to Plans/Programmes/Policies

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

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

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

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

The state authority or natural and legal entity representing a proposal included in 1-2 (above), prepares the SEA report and submits it to the Minister of Environment.

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

Defining the contents of an SEA report

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

Reviewing an SEA report

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

List of Abbreviations

MoE – Ministry of Environment of Albania
REA – Regional Environmental Agency
NEA – National Environmental Agency
EA – Environmental Authority

List of Laws Referred to

Law No. 7664 of January 21, 1993 on Environmental Protection, as amended by Law No. 8364 of July 2, 1998
New Law on Environmental Protection
Draft Environmental Impact Assessment Law

References

- 1 The National Environmental Agency became the Ministry of Environment in 2002.
- 2 Development consent is granted by decision of a competent authority or authorities, and entitles a developer to proceed with a given project.
- 3 A developer is one who applies for authorisation of a private project, or any public authority who initiates a project.

Prepared by

Entela Cobani

Teaching Assistant, Department of Environmental Engineering
Faculty of Civil Engineering, Polytechnic University
Rr. Muhamet Gjollesha, Nr. 54
Tirana, Albania,
Tel: (355-692) 146-140
E-mail: entelacob@hotmail.com

Elvana Cani

Executive Director, Urban Integration Foundation
Rr. Abdyl Frasherri
Vila 5
Tirana, Albania
Tel: (355-4) 247-751
E-mail: ecani@urbin.org

Alma Bako

Director of EIA Directorate, Ministry of Environment
Rr. Duresit 27
Tirana, Albania
Tel: (355-4) 224-572
E-mail: albnea@albnat.net