

Bosnia and Herzegovina Overview of EIA system

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THE REGIONAL ENVIRONMENTAL CENTER
for Central and Eastern Europe

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General Information	5
Country information	5
The Environmental Impact Assessment (EIA) system in BiH	5
Legal acts and regulations concerning EIAs	6
Federation BiH – Federal Level	6
Federation BiH – Cantonal level	6
Republika Srpska	7
New legal EIA developments	7
Background	7
Law on Environmental Protection	8
Administrative arrangement for coordinating EIA	8
EIA players according to the New Law on Environmental Protection	10
Entity ministry responsible for environment	10
Cantonal Ministries of Environment in Federation BiH	11
Municipalities	11
Sectoral Ministries	11
Project Developers	11
State Environmental Protection Agency (SEPA)	11
Training Institutions	11
The public	11
Capacity-building programmes	12
Environmental Impact Assessment	13
Linkage between EIAs and consent for development s	13
Screening	13
Defining the contents of an EIA report	13
Reviewing an EIA report	14
Post-monitoring and analysis of EIAs	15
Espoo Convention	17
Strategic Environmental Assessment	19

General Information

Country information

The Dayton Peace Accords in 1995 determined the end of the war in former Yugoslavia and provided the Constitution of the State of Bosnia and Herzegovina (BiH). According to the Constitution, BiH consists of two highly autonomous entities, the Federation of Bosnia and Herzegovina (FBiH) and Republika Srpska (RS).

FBiH is a decentralised entity and consists of 10 cantons. Each of these cantons is a governmental entity with a high degree of involvement in establishing and carrying out fundamental functions. Regarding the environment, each of the cantonal constitutions state that both the Federation and the cantons themselves are responsible for environment policy, in accordance with the Federal Constitution. The cantons have the possibility of transferring their environmental responsibilities to the municipalities and/or the Federation. At the federal level, the ministry responsible for the environment is the Ministry for Physical Planning and Environment.

RS is a centralised entity divided into seven regions. Local administration exists only at the municipal level. The Republic is responsible for ensuring environmental protection, and the municipalities, in accordance with the law, are in charge of meeting the specific needs of citizens regarding environmental protection. At the republican level, the ministry responsible for the environment is the Ministry for Physical Planning, Civil Engineering and Ecology.

Both ministries of environment are responsible for each entity's environmental strategy and policy. The ministries issue agreements and permits, establish standards and regulations, and monitor compliance with laws and regulations through licensing and inspections.

The Environmental Impact Assessment (EIA) system in BiH

An EIA system has yet to be put into place in BiH. A new set of environmental laws, including the Framework Law on Environmental Protection, which has provisions addressing EIA procedures, was adopted

by the National Assembly of Republika Srpska on July 25, 2002 and entered into force after being published in the Official Gazette of RS, 53/02. The Framework Law on Environmental Protection in Federation BiH was adopted in March 2003 but it has not been published yet in the Official Gazette.

Although the Framework Law on Environmental Protection in RS has been put in force, it is still not fully operative due to the lack of necessary by-laws. Therefore, in this transition period, the already existing licensing procedure (urban permits, construction permits and water management permits) is still considered an indirect method for assessing the impact that undertakings and activities may have on the environment.

In order to provide a clear picture of the developing EIA system in BiH, this report will give a brief overview of the current legal requirements and practices (Chapter 1.3), while the focus will be on new legal developments and future practices.

Currently in FBiH, the Law on Physical Planning, which regulates licensing procedures (urban permits and construction permits), states that developers of activities that might endanger the environment are obligated to acquire regulated permits, accept restrictions on activities, and to take all protective measures in order to prevent or control environmental hazards.

In RS, the existing licensing procedure foresees issuing urban and construction permits for buildings and facilities to be used for activities included in Art. 30, Par. 1 of the Law on Physical Planning. The developer is required to obtain expert opinions pertaining to special conditions and possible ramifications of facility construction and operation. Urban permits, in addition to establishing other conditions, contain conditions for protecting the environment.

In addition, donor agencies such as the World Bank, European Bank for Reconstruction and Development and others require the carrying out of an EIA prior to allowing financial credits for new undertakings. In such cases, investors are to follow EIA operational procedures defined by the donor agencies.

Legal acts and regulations concerning EIAs

FBiH — Federal Level

- New Law on Physical Planning (Official Gazette of FBiH, 52/02)
- Old Law on Physical Planning (Official Gazette of Socialistic Republic (SR) BiH, 13/74, 9/87)

Annex 2 of the Dayton Peace Accords, which addresses transitional arrangements, contains a provision stating that all laws from the former Socialist Republic of Bosnia and Herzegovina that are not inconsistent with the Dayton Constitution may remain in force. This is significant in terms of the environment because the current Law on Physical Planning, enforced in September 1987, has, under this provision, remained in force throughout the territory of Federation of BiH.

Since 2002, the new Law on Physical Planning has been enforced on the territory of FBiH. This new law is harmonised with the Framework Law on Environmental Protection and with its provisions referring to that Law, more precisely, to the provisions concerning environmental licensing and EIA BiH (see Chapter 1.4).

However, since the Law on Environmental Protection is still not in force in FBiH, the new Law on Physical Planning also refers to the environmental protection provisions from the old Law on Physical Planning, until the Law on Environmental Protection enters the force.

To this effect Article 32 of the old Law on Physical Planning states that: “All activities that might endanger a satisfactory condition of human environment should be performed in such a way that any hazardous activity in which a person (or persons) is involved must be avoided or reduced to the lowest possible level of risk... [Anyone who] has the intention of engaging in an activity that might endanger the human environment is obligated to acquire regulated permits, to accept restrictions on activity, and to take all protective measures in order to prevent or control the hazard to the human environment.”

The term “environmental impact study (EIS)” is not used in the law, but it is stressed that one should prove that environmental impact would not exceed established legal limits. This is understood as a requirement to submit a study that will assess and prove that installation will not pose a negative risk to the environment. The law envisages environmental protection as an integral component of all environmental activities. Environmental protection is practiced through plans for spatial development and use, and controlled environmental undertakings. Control is ensured through the

process of issuing urban development permits, construction permits and usage permits.

- Regulation on the Special Control Regime of Activities that Endanger or Might Endanger the Environment (Official Gazette of SR BiH, 2/76, 26/88)

This adopted regulation is based on requirements set forth in the Law on Physical Planning. It defines the method for determining a list of activities that endanger or might endanger the environment, defines the method for determining a list of installations that endanger or might endanger the environment, provides a method for registering these installations, and also establishes conditions for issuing special agreements,¹ such as water management agreement, required during the procedure of issuing urban permits, construction permits and usage permits.

Article 30 states that the special agreement will be issued during the procedure of issuing an urban permit, construction permit or usage permit for installations that endanger or might endanger the environment through their activities.

Article 31 states that “urban permits issued for installations that endanger or might endanger the environment shall contain information and documents determined by the Law, as well as proof that the measures undertaken for protection of the human environment are in accordance with law and other regulations that prescribe protection of human environment.”

- Water Law (Official Gazette FBiH, 18/98)

The Water Law deals with the use and protection of water and other environmental resources, and contains provisions on permits, legal procedures, international standards, and conditions for water use.

The management of water resources prescribed in the Water Law is carried out through the issuing of four types of administrative decisions: water management agreements; water management permits; water management orders; and water management requirements. These administrative decisions are considered an indirect method for assessing the impact that undertakings and activities may have on the water environment.

Water management permits also cover other environmental elements: a permit is required for disposal and discharge into agricultural lands, forested land and the atmosphere.

FBiH — Cantonal level

Cantonal laws on environmental protection have been adopted in Tuzla Canton, Zenica-Doboj Canton, Posavina Canton and West Herzegovina Canton. The

provisions of these laws cannot be, and are not, in conflict with federal laws. The cantonal laws on environmental protection contain provisions on environmental impact assessment. According to the laws, EIAs are carried out as a necessary preparation for receiving an urban agreement. Measures and conditions for preventing negative impacts on the environment are an integral part of the documentation required for issuing an urban permit.² Based on the cantonal laws, cantonal governments have also adopted relevant EIA regulations that

- list the sort of undertaking requiring EIAs;
- establish the required contents of the study; and
- establish other relevant legal conditions.

Cantonal Laws on Physical Planning have been adopted by Sarajevo Canton, Tuzla Canton, West Herzegovina Canton, Bosnia-Podrinje Canton and Posavina Canton. They have also adopted a list of installations that endanger or may have endangered the environment, and have issued urban permits for those installations on the list.

Cantonal water laws have been adopted by Posavina Canton, Tuzla Canton, Zenica-Doboj Canton and Sarajevo Canton. The procedure for issuing administrative decisions is regulated in a nearly identical fashion to that of the federal law.

Republika Srpska

In Republika Srpska, every citizen enjoys the right to a healthy environment under provisions of Art. 35 of the Constitution: "A person has the right to a healthy environment. Every person shall be bound in accordance with the law and his/her own capabilities, to protect and improve the environment".

- Law on Physical Planning (Official Gazette of RS, No. 19/96, 25/96, 10/98, 84/02)

Regarding environmental protection in physical planning and building, Art. 30 of the Law on Physical Planning states: "For the purpose of efficient protection and improvement of the environment, economic and all other activities that endanger the environment shall be subject to a special control regime and registered in a separate register. The Ministry shall publish more detailed terms and ways of control for the terms set forth, as well as ways for registering these activities."

The Law on Physical Planning was last amended in 2002 when the harmonisation with the Framework Law on Environmental Protection was carried out. Therefore, in the licensing process defined by the Law on Physical Planning, the developer must obtain the environmental permit before the urban permit can be issued.

- Water Law (Official Gazette of the RS, No. 10/98, 51/01)

As in FBiH, water management decisions (water management guidelines, water management approvals, and water management permits) are considered an indirect method for assessing the impact that undertakings and activities may have on the water environment.

New legal EIA developments

Background

This current licensing practice has many deficiencies and does not provide sufficient and adequate environmental protection. Recognising the need for creating a modern environmental framework based on European Union standards, BiH, with technical and financial assistance from the European Commission, drafted a new set of environmental laws harmonised for both entities, including: the Law on Environmental Protection, Law on Water Protection, Law on Solid Waste, Law on Nature Protection and Law on Air Protection.

The new Law on Environmental Protection includes provisions concerning environmental permitting, and provides an integrated framework for environmental licensing. The law also includes references to support procedures such as EIAs, based upon the concept of integrated pollution prevention and control. Experts preparing the new laws have also taken into account all relevant EC directives, including Council Directive 97/11/EC, so that the new EIA procedure would be completely harmonised and contain requirements from this directive.

These new laws were adopted by the National Assembly of Republika Srpska on July 25, 2002 and entered into force after being published in the Official Gazette of RS, 53/02. In FBiH, the set of new laws are adopted in March 2003 but have not been published yet in the Official Gazette.

The new laws on environmental protection provide only a framework for environmental protection (including environmental impact assessment), and it will be required to adopt and implement several basic implementation by-laws necessary to make EIA procedure operative and effective. These include:

- a list of installations to be assessed for their impact on the environment;
- project-screening criteria;
- contents of documentation that should be submitted with a request for carrying out an EIA;
- contents of an environmental impact study (EIS);

- instructions for preparing an EIS;
- environmental impact assessment guidelines;
- a list of expert institutions authorised to prepare an EIS; and
- rules for calculating fees payable to the ministry for administrative work, and fee percentages developers have to pay in advance in order to initiate the EIA process.

One BiH entity has adopted a law on environmental protection containing an EIA provision, while the other is expected to adopt one very soon. For this reason, the following chapters will be treating EIA procedure according to the new law. Additionally, the new law provides only a framework for the EIA procedure, and specific issues in this report will be explained in accordance with the proposed EIA verification procedure, which is defined in Section 3 of the METAP-WB project; Urgent Strengthening of Environmental Institutions in Bosnia and Herzegovina.

Law on Environmental Protection

This law regulates environmental licensing in accordance with the most important EU directives in this field, including: the IPPC Directive on Integrated Pollution Prevention and Control; the Seveso II Directive on Prevention of Larger Accidents; and the EIA Directive on Environmental Impact Assessment of Large Industrial and Infrastructure Projects.

The EIA chapter defines:

- EIA objectives;
- preparation of EIS;
- the EIA process;
- public hearings; and
- approval of an EIS as a basic document in the licensing process.

The law also contains provisions on strategic environmental assessment (SEA) (Arts. 51, 52, 60 and 61)³ that are to be observed when carrying out regulations and decisions passed by entity governments (in FBiH, by cantonal governments) that may influence the environment and its components or the quality of environment and human health in connection with the environment.

The flow chart of the EIA process as defined in the Law on Environmental Protection is given in Figure 1.

Administrative arrangement for coordinating EIAs

Since the existing administrative structure in BiH is still very complicated, there remains a principle deficiency of past practice: namely, an unclear division of responsibilities between different levels of administration. The new Law on Environmental Protection clearly defines the responsibilities and institutions involved in EIAs and the licensing procedure.

Articles 55 and 57 of the law stipulate that the EIA procedure will be carried out by the appropriate entity ministry — meaning either the Federal Ministry for Physical Planning and Environment (in FBiH), or the Republic Ministry of Physical Planning, Civil Engineering and Ecology (in RS). In order to carry out EIA procedure, the competent authority will involve all local and regional authorities in cases that have professional and/or territorial concerns, as illustrated in Figure 1.

For those installations either requiring an environmental permit or falling under major accident provisions, the competent authorities are defined in the articles listed immediately below.

In Republika Srpska (Art. 85):

- For large and medium installations above the thresholds defined in implementing regulations, and for installations falling under the major accident provisions, the Federal Ministry of Physical Planning and Environment is the competent authority.
- For smaller installations below these thresholds, and for very small installations with emissions not exceeding those emissions typically emitted by households and for which no special environmental permit is required, cantonal ministries in charge of environmental protection are the competent authority.

In RS (Art. 70):

- For large and medium installations above the thresholds defined in a by-law, and for those installations falling under the major accident provisions, the Ministry of Urbanism, Communal-Housing Activities, Civil Engineering and Ecology is the competent authority.

- For smaller installations below these thresholds, or those not included in a by-law, the municipal body in charge of environmental protection is the competent authority.

Figure 2 illustrates the division of responsibilities in environmental licensing, as well as the EIA process as partially defined by law and partially on recommendation of the METAP-WB study.

FIGURE 1

EIA procedure flowchart as defined by the Draft Law on Environmental Protection

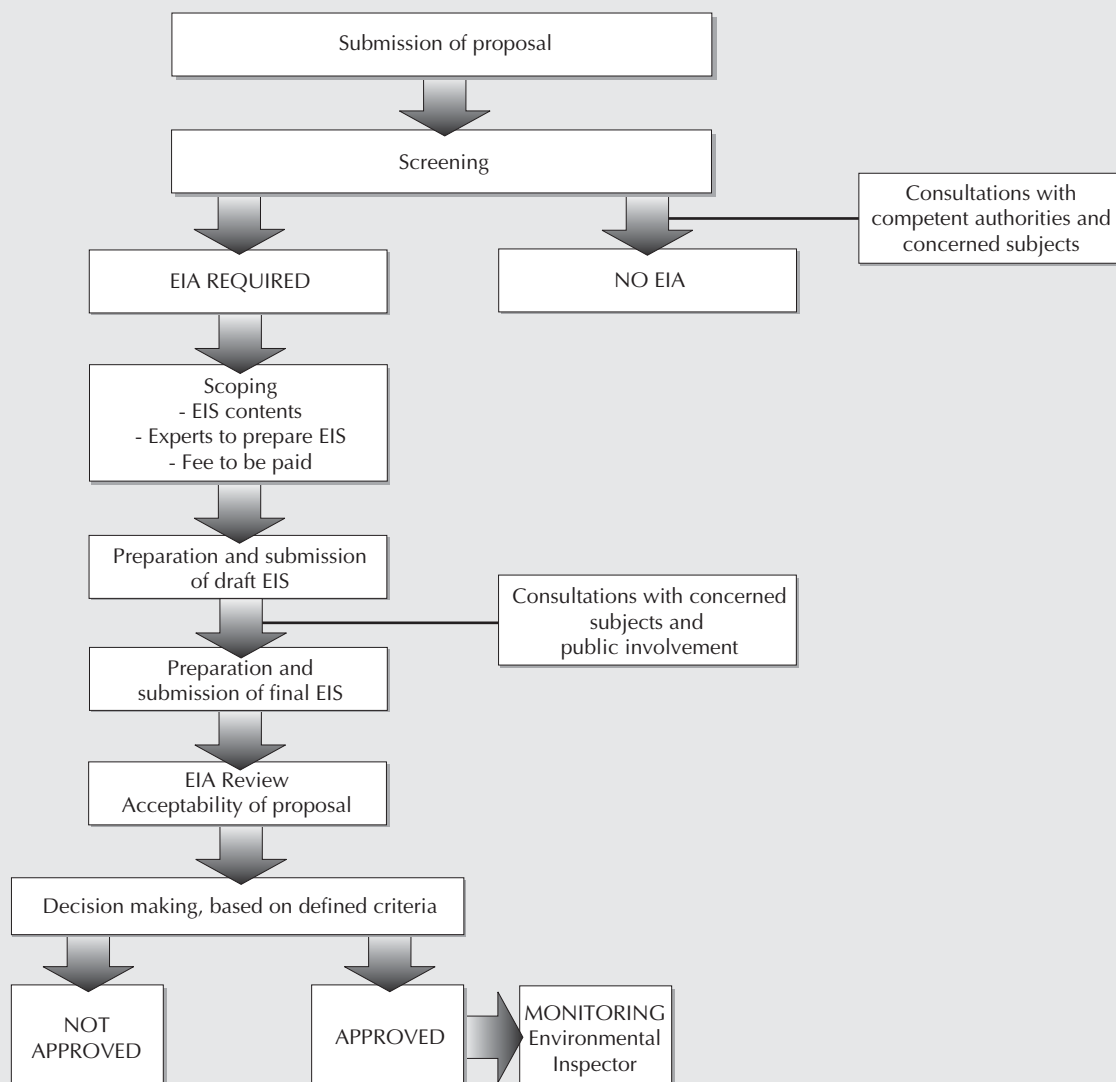
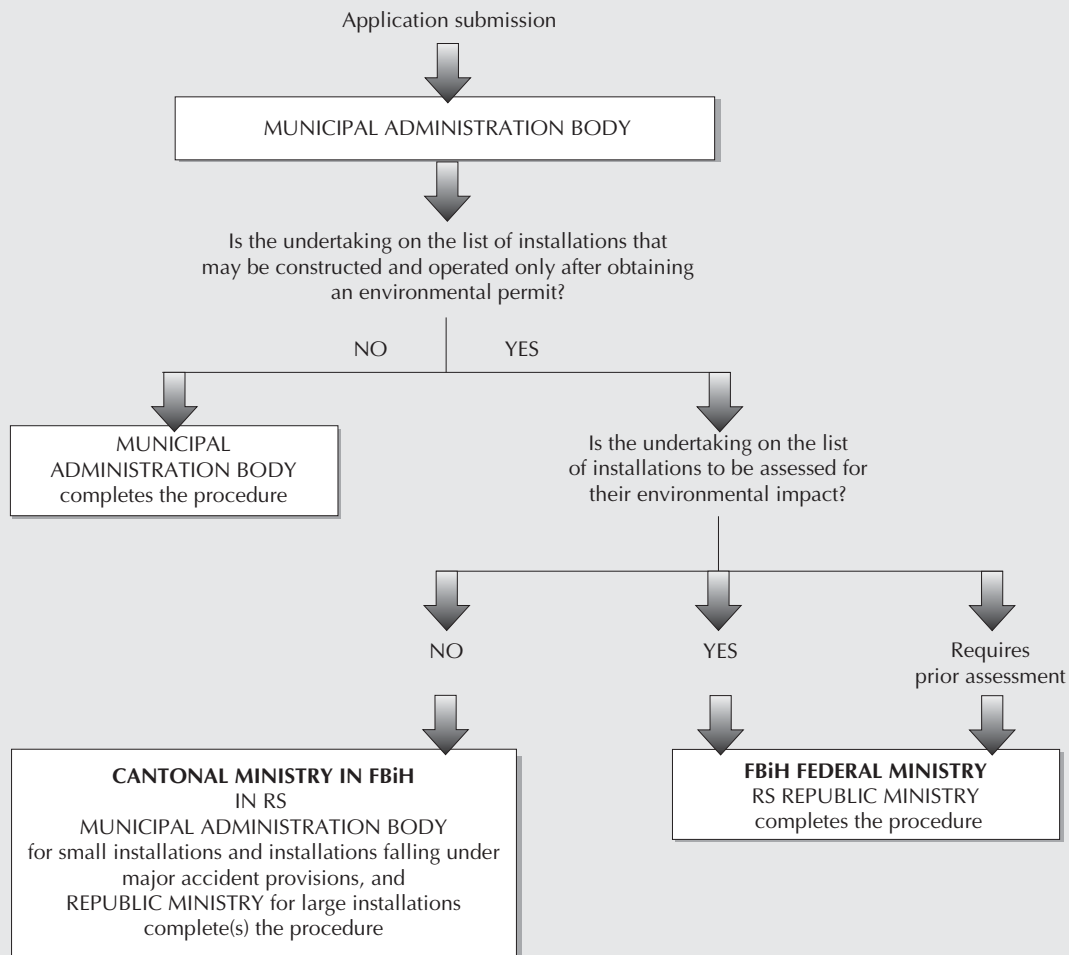


FIGURE 2

Division of responsibilities in EIA and environmental licensing procedures



EIA players according to the New Law on Environmental Protection

The roles and responsibilities of various stakeholders in EIA process are summarised below.

Entity ministry responsible for environment

The responsible entity ministry:

- facilitates the EIA process;
- ensures compliance with EIA provisions of the Law on Environmental Protection;

- evaluates project-description documents, EIA terms of reference and the EIS;
- decides on the necessity of an EIA (screening);
- approves EIS;
- manages the preparation and updating of EIA guidelines;
- prepares and updates the list of projects that endanger or may endanger the environment;
- compiles a list and maintains a directory of expert institutions authorised to prepare an EIS (including selection criteria for expert institutions);
- determines the administrative fee of EIA procedure;
- maintains a register of projects being carried out under the EIA process; and
- maintains an EIS library.

Cantonal Ministries of Environment in FBiH

Cantonal ministries of environment:

- participate in the EIA process by commenting on the necessity of EIA and EIS; and
- participate in the public-hearing process.

Municipalities

Municipalities play important roles by:

- instructing developers on steps that should be taken during the licensing procedure;
- participating in the EIA process by commenting on the necessity of EIA and on EIS; and
- participating in the public-hearing process.

Sectoral Ministries

Sectoral ministries:

- ensure that their own projects adhere to EIA requirements;
- provide information and advice to project developers;
- advise project developers on regulations and monitoring requirements related to licensing their projects; and
- ensure that the project-licensing terms and conditions are met as prescribed in sectoral laws and laws on physical planning and environment protection.

Project Developers

Project developers are expected to prepare “project description documents” and provide EIA “terms of reference.” If unable to do so, they must seek assistance from the ministry. In addition, project developers are obligated to:

- contract an expert institution from the list provided by the ministry; and
- coordinate work between this expert institution and the ministry.

State Environmental Protection Agency (SEPA)

If a project is determined to have a transboundary impact on the environment of another state, State Environmental Protection Agency (an agency that should be formed at the state level but does not exist yet) should communicate on behalf of the entity ministry with environmental ministry representatives from the affected state.

Training Institutions

Various training institutions are responsible for:

- preparing and executing EIA training programmes; and
- creating environmental education programmes.

The public

The public’s many important roles and responsibilities involve:

- identifying potential adverse effects a project may have on the environment;
- participating in public hearing and offering comments and suggestions;
- commenting on EIS contents, and offering relevant information and advice;
- advising project developers on practical approaches for avoiding, minimising or compensating for adverse environmental impacts.

Capacity-building programmes

BiH ministries responsible for the environment currently lack the staff and funding necessary to be fully effective. The department for environment within the

Ministry of Urbanism, Communal-Housing Activities, Civil Engineering and Ecology in RS employs only six people. Future plans call for eight people in the environmental department. The department of environment within the Federal Ministry of Physical Planning and Environment employs only nine; ideally, there would be 14. The situation for the cantonal ministries in Republika Srpska authorised to issue licenses is even worse, and the shortage of qualified staff even more evident.

The existing licensing practice and associated problems show that, after adoption of the new law, all participants in the licensing process (developers, officials, as well as some expert institutions involved in the preparation of EIS) will require capacity-building programmes to increase their knowledge on the subject matter. This includes preparation of the EIA guidelines that will serve each stakeholder (including relevant government ministries and departments, project develop-

ers, the general public, consultants, NGOs and others) as a basic reference that will simplify the EIA procedure and make it easier to understand and follow. Currently, no capacity-building programmes exist in the country. However, preparation of the EIA Guidelines and organisation of a training workshop will be organised within Section 3 of the METAP-WB project Urgent Strengthening of Environmental Institutions in Bosnia and Herzegovina.

End note

- 1 Agreement is a literal translation for type of permit which is issued when authority agrees to allow certain activities, such as use of water.
- 2 Urban permit is a type of permit that is issued when the project is in accordance with urban development plans of the region.
- 3 The first two articles are from the Draft Framework Law on Environmental Protection for Republika Srpska, and the latter two are from the Framework Law on Environmental Protection for RS

Environmental Impact Assessment

Linkage between EIAs and consent for developments

The Law on Environmental Protection states that installation may be built and operated only if they have an environmental permit issued in accordance with the provisions of this law. This permit is aimed to provide a high level of integrated environmental protection through the protection of air, water and soil. If other laws in force require other permits for that installation — including urban permits, construction permits and use permits — these permits will be issued together. That is, they will be harmonised and in agreement with the environmental permit. In that sense, all bodies authorised to issue permits will be involved in the process of issuing an environmental permit. Additionally, no competent authority shall issue a building permit or other necessary form of consent — including an environmental permit — for a project requiring an EIA unless the developer attaches a copy of an approved EIS to his/her application.

EIA outcomes are legally binding and are not subject to court appeal. No other types of environmental or health analyses/permits (outside an EIA) are needed prior to the execution of a project.

Screening

Based on the METAP-WB project proposal, the EIA procedure in both entities should begin with the submission of a request for issuing an urban and construction permit, together with other relevant documents, to the relevant municipal administration body responsible for urban affairs. The municipal administration body should consult the list of installations that may be constructed and operated only after obtaining an environmental permit, in addition to the list of installations to be assessed for their environmental impact, and, finally, the list of installations for which an EIA may be required. (Please see Figure 2 to gain a clearer picture of possible scenarios.) These lists, which are to be defined in a by-law, are drafted by foreign experts in accordance with Annex I of the EC Directive. Local experts will revise these lists and, after modifying them to local conditions, they will be submitted to relevant authorities for adoption.

If a project is found on the list of installations that should be assessed for their environmental impact, or if it should pass the screening procedure, a municipal administration body should pass on the request to the federal or republic ministry responsible for the environment.

Upon receiving all necessary documents, the ministry should immediately forward copies of the request, with all attached documents, to the competent authorities and concerned subjects for comments. These include the authorities from the relevant entity, cantonal authorities, regional authorities and municipal authorities from the region where the installation is to be located. They are expected to submit their comments within 30 days.

Based on the screening criteria and comments received by the relevant authorities and concerned subjects, the relevant ministry responsible for the environment should decide whether or not the project requires an EIA. These criteria are not yet defined in a by-law, but are proposed under the METAP-WB project.

The Ministry of Physical Planning and Environment in Republika Srpska has issued only a few licenses following EIA requests — mainly for quarries and sawmills. In 2001, the Ministry of Physical Planning, Civil Engineering and Ecology in RS has issued five new urban permits, nine construction permits, and renewed 13 urban permits. For urban permits, the ministry has asked for expert opinions on environmental impact from the Institute for Protection, Ecology and Informatics in Banja Luka. No expert opinions were requested during the procedure of issuing construction permits.

Defining the contents of an EIA report

An EIA report should be prepared for all activities that are subject to the EIA process. The new Law on Environmental Protection provides only a framework for EIAs and, therefore, a special by-law is required to define and regulate EIA contents. However, based on the METAP-WB project proposal, an EIA report should contain the following, which is outlined in Figure 3:

FIGURE 3

Contents of EIA report

Non-technical summary

List of abbreviations

Chapter 1. Introduction

Chapter 2. Delineation of need for project

Chapter 3. Description of proposed project

- What will function and how it will function
- When it will occur (timing for construction and operation)
- Extent of effectiveness in meeting need described in Chapter 2

Chapter 4. Description of affected environment

- Components of baseline conditions and study-area boundaries
- Interpretation of existing quality components (physical, biological and human environment in the project area)
- Environmentally-sensitive areas of special or unique biophysical, socio-economic or cultural value

Chapter 5. Impacts of proposed project

- Identification and description and/or quantification of impacts on environmental components

- Interpretation of significance of impacts
- Mitigation measures for adverse impacts

Chapter 6. Impacts on other entities or states (if applicable)

- Identification and description and/or quantification of impacts on environmental components
- Interpretation of significance of impacts
- Mitigation measures for adverse impacts

Chapter 7. Evaluation of alternatives

- Description of alternatives
- Selection methods

Chapter 8. Planned environmental monitoring

- Need for monitoring
- Description of monitoring programme
- Outputs and decision points

Chapter 9. References

Annexes (the following are examples): Terms of reference (obligatory); Description of public participation programme; Environmental factors considered and deemed not relevant; Relevant laws, regulations and policies; Species list; Impact calculations, etc.

The METAP-WB project suggested that the EIA process should be based on terms of reference (ToR) prepared by either the ministry, developer or contracted external experts. The issues covered in the study that should be specified in the ToR should be identified primarily in scoping discussions between the ministry, the developer and, if available, external experts.

The law stipulates that the ministry should prepare a list of expert institutions authorised to prepare EIA reports, together with criteria for selection or exclusion of these institutions from the list. According to the law, both in Republika Srpska and RS the developer will be given the list to select an institution and contract it to prepare an EIA report.

An EIA report is prepared in two phases: a draft version and a final version. After completion of a draft report, the expert institution contracted to prepare the report will submit the draft to the ministry. The ministry should forward the draft to relevant authorities and other concerned subjects for comment. The ministry will also inform the public through entity-wide advertisements in daily newspapers and organise a public hearing. The public can then give their comments and opinions on improving the project and protecting the

environment. Upon receiving comments from public and other concerned subjects, the ministry is to forward them to the developer and a contracted expert institution who should then continue its work on the final EIS; taking the received comments into consideration. The contracted expert institution should finalise the EIS within the time period defined by law – that is, if possible, by ToR.

Reviewing an EIA report

According to the Law on Environmental Protection, the ministry in charge of environmental concerns should evaluate and approve the EIS. The ministry should confirm only the legality of the procedure, but refrain from making professional or technical estimates. The approval may be refused if:

- expert opinion predicts significant environmental pollution from the project, or predicts that the project will significantly endanger the environment;

- expert opinion establishes that the project is not in harmony with the environmental protection plans at the state and/or entity level; or
- expert opinion establishes that the project is not in harmony with the state's international environmental legal responsibilities.

According to WB-METAP project recommendations, the contracted expert institution and developer should have the right to participate in the approval process, but not to participate in the decision-making process.

There is no body foreseen by law to ensure the quality of or verify EIA reports.

Post-monitoring and analysis of EIAs

The monitoring of a project's actual environmental impact is compulsory. Monitoring requirements will be defined in the EIA report, and the developer is to comply with the monitoring programme, which will become part of the environmental permit. Therefore, a

comprehensive, post-EIA monitoring programme is required, and the resulting information should be used in environmentally responsible management and decision making.

The law provides for inspecting whether or not a project is operating in compliance with the requirements of the environmental permit, relevant laws or activity-related by-laws. Inspections are to be performed by inspectors (within their scope of responsibilities) and may represent either an entity, canton, city or municipality. An inspector may enter all premises, working areas and buildings of the installation during an onsite inspection, may inspect all documents, data, devices and materials present at the installation, and may take samples and measurements. If an installation is not in compliance with its environmental permit, the inspector will issue an order of compliance to the operator. If non-compliance continues, the inspector will request that the ministry suspend the environmental permit.

Espoo Convention

According to the Law on Environmental Protection, if an expert institution contracted to prepare an EIA report has found that the project will have significant effects on the environment of another entity or state, it will create a special chapter within the EIS that contains all available information concerning the environmental effects on the affected state.

After receiving a draft EIA report, the ministry should send public notification to the affected state, containing:

- a project description, together with any available information on possible transboundary impact;
- information on the nature of decisions that may be taken; and

- a reasonable time-frame in which to indicate whether the other state wishes to participate in the EIA procedure.

If the affected state decides to participate in the procedure, the ministry should send the special EIS chapter, along with information on the next steps of the EIA procedure to the other state. The affected state is to send its comments and recommendations that are to be incorporated in the final EIA report.

As the law has been adopted in RS only recently, and still awaits adoption in Republika Srpska, details of the procedure are not yet defined. No transboundary EIAs have been carried out thus far.

Strategic Environmental Assessment

The Law on Environmental Protection also contains provisions on strategic environmental assessments (SEA) that are to be carried out for regulations and decisions that are passed by entity governments and, in FBiH, cantonal governments, and which may influence the environment and its components or the quality of human health in connection with the environment. An SEA is to be obtained by those who propose a regulation or decision. According to the law, an SEA should cover:

- the extent to which planned regulations and measures may have negative or positive influence on the state of the environment;
- what, if planned measures have not been implemented, could be the consequences for the environment and population;
- the extent to which conditions are adequate for the introduction of planned measures;
- the extent to which organs and public administration are prepared for the implementation of planned measures;
- whether the entity's or canton's financial, organisational and procedural conditions are available for the implementation of planned measures; and
- the extent to which the proposal represents any deviation from solutions generally adopted through an international plan.

The strategic environmental assessment should be prepared by a legal or private person from the list of professionals authorised for preparation of environmental studies. The list will be defined by the ministry responsible for environment.

SEAs should be forwarded to the Environmental Advisory Council⁴ of the entity, together with the draft regulation or decision. The Environmental Advisory Council will state its opinion on the draft regulation or decision and the SEA. The council may ask for expert assistance in conducting a detailed evaluation.

The proposer shall forward the SEA to the body that is to pass the regulation or decision, together with the opinion of the Environmental Advisory Committee.

In Republika Srpska, SEAs are to be adopted by Government of Republika Srpska.

As the law has been adopted only recently in RS, and still awaits adoption in Republika Srpska, details of the procedure are not yet defined.

End note

⁴ The Environmental Advisory Council has an advisory role to the Ministry of Environment composed of experts selected by entity governments.

