

Croatia

Overview of EIA system

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THE REGIONAL ENVIRONMENTAL CENTER
for Central and Eastern Europe

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General Information

Country background

The Republic of Croatia is located in South Eastern Europe on the Balkan Peninsula. Formerly a constituent republic of the Socialist Federal Republic of Yugoslavia, Croatia declared its independence on June 15, 1991. A war ensued and lasted until 1996. With the election of a new government in February 2000 that replaced the former nationalist government, discussions with the EU on accession have been initiated. The Agreement on Stabilisation and Association was signed between Croatia and the EU on October 29, 2001. Croatia is now facing two main challenges: to consolidate democracy to underpin long-term political and social stability; and to implement a comprehensive programme of structural reforms to achieve political and economic transition. The country has an area of about 56,538 square kilometres. Its largest cities include Zagreb, the capital and main industrial centre (pop. 726,770); Split (189,000) and Rijeka (167,000), two major seaports; and Osijek (104,000), an industrial centre. The total population is about 4,700,000.

Croatia's economy went into steep and rapid decline with the outbreak of war in 1991. Between 1991 and 1994 the gross domestic product declined by more than one-third, reflecting the collapse of the tourist industry, a major source of foreign exchange earnings, and damage to the industrial and agricultural sectors. Croatia began a slow economic recovery in late 1993. The republic joined the IMF in January 1994 and the World Bank in April 1994, and by the end of the year had privatised almost half of the country's businesses.

The coastline of Croatia stretches for 1,777 kilometres along the Adriatic Sea. It has over 1,000 islands. About 37 percent of the land is covered by forests. The geology is primarily karst, and karst ecosystems support a globally significant biodiversity. Given its diversification of landscape and economic development, it is not surprising that Croatia exhibits many forms of environmental degradation — from pollution of air, water and soil, to inadequate management of natural resources and biodiversity, as well as contributions to regional and global problems like ozone depletion and climate change. Compared with other countries of Central and Eastern Europe, few of Croatia's environmental problems could be categorised as severe or pervasive. Rather, they tend to be moderate in severity, limited in extent, and potentially manageable.

The main environmental problems are those that relate to water and air pollution, and soil erosion. The level of many atmospheric pollutants exceeds internationally accepted standards in some hot spots such as the industrial towns of Zagreb, Rijeka and Split. Forest fires were the main cause of soil erosion in many parts of the country for several years. The level of erosion is particularly severe in central and coastal Istria, as well as in the delta and coastline of the Neretva River.

Legal framework

Croatia's 1974 Constitution specified environment as a constitutional category. The 1990 Constitution includes an obligation to protect the environment and nature, and ensures the rights of citizens to a healthy environment. This was followed in 1992 by a Declaration on Environmental Protection and, in 1994, by the Law on Environmental Protection — an “umbrella” law, which sets objectives and principles, and defines environmental liability and inspection systems. The Law on Nature Protection is currently under revision to harmonise it with EU directives.

The first legal requirement for environmental impact assessment (EIA) in Croatia was established in the 1980 Law on Physical Planning and Spatial Arrangement. Detailed regulations on the preparation of EIAs were issued in 1984; articles 25-32 of the Law on Environmental Protection deal with different EIA elements. The Decree on EIA was passed in April 1997. Its intent was to improve the EIA procedure, particularly in sections related to public participation, the quality of EIAs, the introduction of a review commission, and provisions to integrate EIA into physical planning at an early stage. The Decree on EIA was replaced by the Rule Book on EIA issued by the Ministry of Environmental Protection and Physical Planning in June 2000.

As well as covering a broad range of environmental effects, EIA reports serve as pollution control submissions for air emissions. Discharges into water are dealt with separately by the water authorities. An EIA considers a project's possibly adverse impacts on soil, water, sea, air, forest, landscape, physical and cultural values, and their possible interactions with regard to existing or anticipated activities in the area.

New legal EIA developments

The amendments to the Law on Environmental Protection currently being proposed introduce many changes to the EIA process: first, the impact assessment is to be carried out at two levels: the strategic impact assessment (of programmes, plans and strategies) and the environmental impact assessment (on a project level). The amendments also introduce a procedure of public participation in accordance with the Aarhus Convention where they especially clarify requirements for participation in scoping. Regarding the screening process, proposals clarify what types of small and/or medium-sized projects are subject to simpler forms of assessment than full EIAs. For environmental management plans, the amendments add the requirement for a full environmental management plan. They also clarify responsibilities for follow-up monitoring and, finally, they provide additional guidelines to give developers and consultants greater guidance on potential impacts and appropriate impact-prediction techniques.

Council Directive 97/11/EC

Council Directive 97/11/EC, amending Directive 85/337/EEC on the assessment of effects of certain public and private projects on the environment, provides for citizen participation in decision-making with respect to proposed projects. It is partly implemented in the Rule Book on EIA (NN 59/00), and many requirements from that directive are introduced in amendments to the Law on Environmental Protection (NN 82/94, 128/99). However, they are not compiled in their lists of projects and the scoping phase because the contents of an EIA study are prescribed in the Croatian Rule Book on EIA.

Administrative arrangements and procedures for coordinating EIAs within or between jurisdictions

The statutory authorities for EIA are the Ministry of Environmental Protection and Physical Planning (MEPPP) (with national authority), and county administrations (county offices with local environmental responsibilities, and the City of Zagreb). County offices of the City of Zagreb are entitled, according to Art. 27a of the Law on Environmental Protection, to perform the EIA procedure for projects specially listed (Proposal on Amendments to the Law on Environmental Protection, Art. 27a). In such cases, the MEPPP will be the main coordinating body. Furthermore, since all EIA procedures and consent fall under the Law on General Administrative Procedure, it is treated as any other administrative act and, in the event of an appeal against final consent of the

county office (or the City of Zagreb), the MEPPP is the higher authority. Appealed cases against MEPPP consent go to the Administrative Court.

Major players in the EIA process

The developer has, according to the Rule Book, the obligation to compile all necessary project documentation, including the EIA study/report. The developer finances the work of the commission that reviews the study, which is usually carried out by a consultant company. The authors of the EIA study (usually authorised consultant companies) and the project proponent participate in the commission's work, but with no rights to participate in decision making. Permanent commissions have been established for roads and airports. Other commission memberships are established for each project, according to the characteristics of the project and the impact on the environment. A commission consists of at least five members proposed by government bodies, local government representatives, and relevant technical experts.

Commission conclusions are presented to the MEPPP, which grants or withholds approval of the project.

Range and level of professional, educational and technical skills available in Croatia to support the EIA process

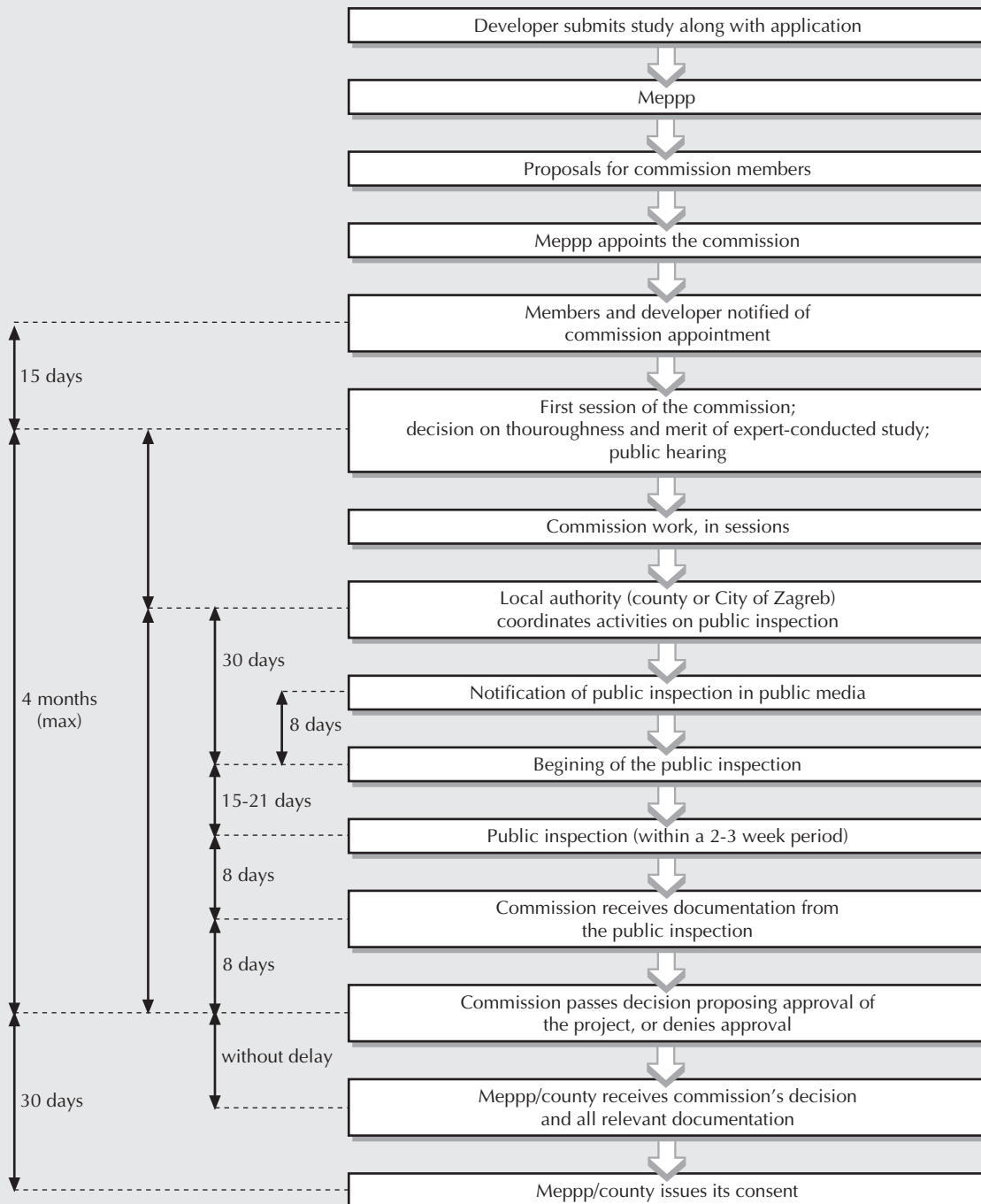
The Ministry of Environmental Protection and Physical Planning is the body responsible for EIAs at the national level. The ministry's staff regularly attends different seminars in the country and abroad to expand their knowledge on the issue. There are 46 consultancies that carry out work in this field, and they are listed and selected according to the By-Law on Conditions for Issuing Permits for Performing Professional Environmental Activities (NN 7/97).

EIA training and capacity-building programmes in Croatia

Special training sessions in EIA processes have occurred only on an occasional basis, and only through a few international projects aimed at training project staff (e.g. United Nations Environment Programme, Mediterranean Technical Assistance Program, World Bank projects, etc.).

However, the MEPPP has introduced the practice of consulting, at least once a year, all consulting agencies and other legal persons that hold permits to perform professional environmental activities.

Flow-chart of the EIA process



Environmental Impact Assessment

Links between EIAs and consent for development

Types of consent that require an EIA

The Law on Physical Planning (NN 30/94 and 68/98) regulates the issuance of “location permits”, which entitle a developer to proceed with a project. The permit is verification that all conditions have been fulfilled regarding various forms of consent from all relevant authorities and, furthermore, that the permit is a precondition for a “construction permit” application. One criterion to be fulfilled when applying for a location permit is to establish whether or not the proposed project is listed in the *Rule Book on EIA*, or is envisaged in the Physical Plan (passed by the County Assembly as a project requiring the EIA procedure to be carried out).

EIA outcomes

All EIA outcomes are binding. Final consent issued by the MEPPP or the county that has carried out an EIA is, by its legal nature, an administrative act and falls under the Law on General Administrative Procedure.

Other types of environmental or health analyses/permits needed prior to project execution

Following the EIA procedure (if it was needed), and when applying for a location permit, a developer must investigate and satisfy all conditions stipulated in other relevant laws under their special provisions, such as: the Act on Air Quality Protection (NN 48/95); Act on Nature Protection (NN 30/94 and 72/94); Act on Health Protection (NN 1/97); and the Act on Construction (NN 52/99, 75/99, 117/01) in order to collect all the relevant forms of consent and be able to proceed with the project.

Screening

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

The Ministry of Environmental Protection and Physical Planning issued the Rule Book on EIA, which includes, among other things, an annex with the list of projects subject to EIAs. According to the Law on Environmental Protection (Art. 26, par. 3), there is some opportunity for the County Assembly/Assembly of the City of Zagreb, while passing its Physical Plan, to intervene and require an EIA because of special environmental and health concerns, even if a project is not listed as requiring an EIA. The same law also prescribes the projects listed in Art. 27a of the Proposal on Amendments to the Law on Environmental Protection (April 2002) that are subject to an EIA, and stipulates that the procedure will be performed by the County/City of Zagreb instead by the MEPPP.

Projects requiring an EIA

Projects requiring an EIA are included in the “list of projects” and are also listed within a given county’s physical plan (passed by its assembly).

Comparison of the Croatian list of projects in Annex I of the Rule Book on EIA to that of EC Directive 97/11/EC, amending Council Directive 85/337/EEC

It has proven difficult and time-consuming to compare the list in the Annex and the EIA Rule Book to that of the EC Directive. Even after close scrutiny, it cannot be fully assessed whether the two lists are fully consistent, because the activities are not entirely comparable. For example:

- There is a difference in methodology for grouping the activities; The EC Directive sorts them into 21 production sectors, while the Croatian list has nine groups (transport facilities, energy supply facilities, hydraulic structures, production structures, structures for waste management, sport structures and construction entities.
- Most of the activities in the Croatian list are only broadly described, while the activities listed in the annex are more specific and concrete.

- Threshold values do not always correspond. Sometimes they are not comparable, and sometimes the Rule Book offers lower thresholds.
- The annex list contains a detailed list of chemicals and production installations. The Croatian list does not provide any detailed information on chemicals or production installations, or on the production of plastic materials. Regarding the production of nuclear fuel, groundwater abstraction and artificial groundwater recharge schemes that are not covered in the Croatian list, the MEPPP denies the existence of such production and technology in the country.
- On the other hand, the Rule Book covers activities other than those listed in the annex, such as: sport structures, tourist centers, commercial centers and others.

In general, the annex list of the EC Directive and the Rule Book cover more or less the same activities. But there are, as already mentioned, examples of activities that are not covered at all by the Croatian list, while some are not covered in enough detail. Furthermore, there are examples in both the EC Directive and the Croatian Rule Book of very strict regulation, or “over-implementation”.

Consultations during the decision-making process

Most of the projects in Croatia requiring the EIA procedure are listed in the Rule Book on EIA or passed within County/City of Zagreb Physical plans, or they are listed in the Law on Environmental Protection as projects for which EIA procedures will be carried out at the County/City of Zagreb level. However, during the drafting or approval stage of laws, rule books and physical plans, the legislative procedure directly allows for consultations with both relevant state agencies, likely-affected municipal-, county- and regional authorities, as well as members of the general public either affected, likely to be affected or having an interest in the project.

How many EIAs are carried out per year?

The MEPPP claims that approximately 80 EIAs are conducted annually at the national level, along with 30 at the county level. The breakdown by sector is as follows:

- mineral and raw mineral extraction (30 percent);
- production structures (20 percent);
- transport facilities (10 percent);
- hydraulic structures (10 percent);
- energy-supply facilities (10 percent);
- structures for waste management (10 percent);
- sport structures (5 percent); and
- construction entities (5 percent).¹

Contents of an EIA report

Requirements for preparing an EIA report

Articles 3 and 4 of the Rule Book on EIA NN 59/00 prescribe an obligation to prepare a study/report on all activities that are listed here which require an EIA.

Legal requirements for EIA report contents

Article 5 of the Rule Book on the EIA NN 59/00 determines the following chapters and contents:

- description of the intervention, its location, and the location’s acceptability;
- evaluation of the location’s acceptability;
- environmental protection measures and plans for their implementation;
- concise conclusion of the study;
- summary of preparation for inspection by the general public; and
- sources of data.

Competent authority for specifying the precise contents of an EIA report

Articles 10 and 3 of the Rule Book on the EIA (NN 59/00) provide a possibility of an exemption from the obligatory content of the EIA study that is prescribed by the same Rule Book. Instead, an elaboration of the study can be carried out with “target contents”. By examining target contents, specific aspects of environmental impact of the reconstruction, removal or cessation of operation of the intervention referred to in Art. 3 par. 2 and 3 of this Rule Book are elaborated upon. This may be allowed by the competent authority upon request of the intervening executor, the latter of which must explain why this kind of elaboration is requested and, furthermore, to propose the objectives and contents of the study. The MEPPP grants such an elaboration as a study within the parameters of target contents, and defines its content in a formal procedure prescribed in the Rule Book on EIA.²

Accreditation for preparation of an EIA report

According to the By-Law on Conditions for Issuing Permits for Performing Professional Environmental Activities (NN 7/97), there are, at the moment, 46 consultancies that carry out work in this field. The selection and listing of these consultancies are integral components of this by-law. Accreditation is usually granted for the maximum period of three years, but this period can be extended upon request of the consulting company. In practice thus far, there is a wide scope of accreditation given to various companies (from established faculties and large research institutes to small, private companies), which vary greatly in the capacity and quality of their work. This being the case, the Meppp has proposed to abolish this accreditation procedure in order to relieve unnecessary burdens. As things stand presently, EIA reports are closely reviewed and evaluated by an expert commission each and every time a developer applies to undergo the EIA procedure. To abolish the current accreditation procedure and, instead, involve more input and capacity for reviewing EIA reports/studies, as this must be done anyway, according to relevant regulations.

Analyses of the project alternatives

Addenda 1 and 4 to Chapter B (“Acceptability assessment of interventions”) contained in Art. 5 of the Rule Book determine, respectively:

- identification and review of possible environmental impacts of the intervention and its variants during preparation, development and use of the intervention; and
- proposals, with supporting arguments, of the most adequate intervention variant with regard to environmental impact.

Evaluation of alternatives within an EIA report

Formally, the “commission” is a body that evaluates the content of an EIA report in a way and manner prescribed by the Rule Book on EIA. The same regulation entitles the commission to require an evaluation of proposed project alternatives, as well as some additional relevant research or data (within a reasonable range of additional costs). The Meppp, as part of practice, allows the possibility for competent authorities (the Meppp, themselves) to require an evaluation of certain project alternatives contained within the EIA report, and to intervene at any stage of the EIA procedure during the commission’s work.

Possible consultation when defining the contents of an EIA report

The contents of an EIA report, as determined in the Rule Book, involve obligatory chapters and the additional possibility of a “target contents” study. There are no extra consultations envisaged between relevant state agencies as to the contents of the study.

Addendum 6 to Chapter A (a description of the intervention and its location) contained in Art. 5. of the Rule Book contains a description of the relationship between the intervention’s executor and the public prior to elaboration of a study. Therefore, the only obligation in this regard is to inform the public of any consultations. This is prescribed in such a way that the developer has an obligation to state if he or she has had consultations of any sort with the public during the preparation of the study, and if the contents of the study have been revealed. However, “public” is not clearly defined: is it the affected public, those likely to be affected or with a stake in the project, or the public at large? Neither is it determined in which manner the public should be informed, nor in which way the public is to be involved in determining the contents of a study.

Reviewing an EIA report

Competent authority responsible for reviewing an EIA report

The first competent authority to review an EIA report/study is the commission that evaluates the thoroughness of the study and quality of evidence supplied by qualified experts. If the information provided is insufficient, or any other variety of dilemma should occur, any final decisions or opinions are in the hands of the Meppp.

What is actually carried out by review of an EIA report?

In accordance with Art. 27, par. 1 of the Law on Environmental Protection (NN 82/94 and 128/99) a commission, as an independent body, determines the thoroughness and accuracy of a study during its first session. A commission consists of at least five members proposed by government bodies, local government representatives and relevant technical experts. Commission members are appointed by the Meppp for each proposed project. Commission members shall be scientific and expert officials, members of representative bodies, and/or representatives of the government authorities who, on the basis of special legislation, provide approvals, conditions or opinions related to environmental protection.

The commission, as referred to in par. 1 of the present Article, shall be appointed for each respective development, but if a larger number of developments falling in the same category is proposed, a permanent commission may be appointed. (In Croatia, permanent commissions have been established for roads and airports.) The Meppp may direct the authorities of a respective county, or the City of Zagreb, to appoint a commission for assessing developments, as referred to in Art. 26, par. 2 of the Law on Environmental Protection. (Specific projects are listed in Art. 27 in the proposed amendments to the Law on Environmental Protection, April 2002).

At the end of the process, the final competent authority who reviews an EIA report is the Meppp, which receives the commission's decision to approve or deny the proposed project, together with all the other relevant documentation received, and passes its final consent.

Consultations during review of an EIA report

The following stakeholders are consulted during a review of an EIA report:

- relevant state agencies;
- likely affected municipal-, county- or regional authorities;
- members of the public either affected, likely to be affected or having interest in the project; and
- the general public.

Which body ensures the quality of or verifies an EIA report?

The commission is responsible for ensuring the quality of and verifying EIA reports.

EIA post-monitoring and analysis

Special requirements for planning post-EIA monitoring

According to the Art. 5 of the Rule Book on EIA (NN 59/00), there is an obligation prescribed for a developer to propose, if necessary, a monitoring programme, supported with arguments, related to the state of the environment during execution, non-execution, or cessation of use of intervention. There is a "zero-state" that needs to be monitored, which proceeds during the execution of the project and, during its exploitation, may become subject to post-EIA monitoring. However, in existing national legislation, there are no special provisions regarding enforcement, monitoring and compliance with EIA conclusions. The general provisions on environmental enforcement and monitoring are stipulated in the Environmental Protection Law (NN 82/94, 128/99).

Other analyses required by the competent authority on the basis of the EIA process

The commission in session evaluating an EIA report/study may, on occasion, require additional expertise. If necessary, a competent authority may request any additional expertise within a 30-day period from when the Meppp receives the commission's decision to approve or refuse a proposed project, along with all relevant documentation, and before the ministry passes a final ruling.

Espoo Convention

Legal procedures established in Croatia for incorporating the Espoo Convention

Article 32 of the Law on Environmental Protection (NN 82/94, 128/99) stipulates that, if such a situation occurs when a proposed development, facility or activity could have significant impact on the environmental state of neighbouring countries, the Meppp shall inform the respective neighbouring country's competent body accordingly. The Rule Book on EIA prescribes that the project developer, when elaborating the EIA report, must assess the coordination of intervention with international liabilities of the Republic of Croatia related to the decrease of transboundary environmental impacts and/or the decrease of global environmental impacts (Art. 5, par. 2).

The Republic of Croatia is party to the Espoo Convention.

Which authority determines whether a project requires a transboundary EIA?

The Ministry of Environmental Protection and Physical Planning is responsible for making this determination.

Determination of projects requiring a transboundary EIA

In accordance to the Espoo Convention's list of projects, and in accordance to the Law on Environmental Protection, if the project does have or could have a transboundary effect (regardless of whether the project is included in the Convention list), Croatia will apply all criteria and procedural methods of the ESPOO Convention according to the Law on Ratification of the ESPOO Convention (NN 1/6/96).

Transboundary EIAs carried out in Croatia

Two projects have been carried out in full:

- one with Slovenia (water treatment plant); and
- one with Italy (gas pipeline project).

Four projects are in the process of being carried out:

- one with Hungary (hydro-power plant project); and
- three with Slovenia (road, dike and quarry projects).

One project with Italy is in the initiative stage (Adriatic gas-field project).

Assessment of transboundary impacts

Assessing transboundary impacts is an obligatory part of the EIA study prescribed in the Art. 5, paragraph 2 of The Rule Book on EIA (NN 59/00). According to that article, each developer is obliged to take into consideration whether transboundary impacts may occur and to mention them in the EIA report. If the preliminary EIA study determines that there could be actual transboundary impacts, all further steps are taken according to the Espoo Convention.

Consultations for concerned parties

Consultations for concerned parties are being determined on a case-by-case bilateral agreement with concerned neighbour countries.

Provisions of the Espoo Convention for these consultations are established by means of communication with the Ministry of Foreign Affairs. However, communication begins and proceeds, if the issue occurs, from the minister of environmental protection of Croatia directly to the relevant ministry of the country concerned, while keeping the Ministry of Foreign Affairs informed and up to date throughout the entire process.

Strategic Environmental Assessment

EIA is only partially used in physical plans (i.e. in preliminary studies for developments not specified in physical planning documentation). Croatia intends to introduce strategic environmental assessment SEA for plans, programmes, and policies into physical planning, as well as into other sectors in the future.

SEAs of physical plans are already carried out in Croatia under Art. 34 of the Law on Environmental Protection, which requires Meppp consent to such plans prior to their passage. There are no detailed provisions, however, and these assessments are rarely carried out in the same depth as is required for projects under the Rule Book on EIA. Meanwhile, Art. 33 requires environmental factors to be taken into account when drawing up the plan.

There are plans to include SEA as an amendment to the Rule Book on EIA and also to the Law on Environmental Protection, most likely in a form that operates more through cooperation and advice than rigid requirements. The Proposal of Amendments to the Law on Environmental Protection (April, 2002) in Art. 33 (a and b) introduces SEA and the only existing legal framework in Croatia for this procedure. The proposal does, however, establish the basis for SEA implementation in the Croatian legal system. The article proposal prescribes SEA in the following ways:

- SEA is a procedure that evaluates the environmental impact of planned activities and ensures overall assessment of environmental protection in the early stages of drafting proposals for strategies, programmes and plans prior to their passage.
- Plans, programmes and strategies that are subject to SEA are documents passed by Parliament, the Government, county assemblies or the Assembly of the City of Zagreb.
- SEAs will be carried out for strategies, plans and programmes in the following sectors: agriculture, forestry, fishery, energy, industry, traffic and telecommunications, waste management, water treatment and physical planning.
- SEAs will not be carried out for strategies, plans and programmes involving the defense sector, state finance, the state budget, and other extraordinary situations.
- SEAs for documents passed by the Parliament or Government will be carried out by the Meppp in cooperation with the relevant authority in charge of drafting the document.
- SEAs for documents passed by a county assembly or the Assembly of the City of Zagreb will be carried out by the County/City of Zagreb Office for Environmental Activities.
- SEA procedure, data collection, time-frames for the procedure, models for public participation, monitoring of passed documents, and decision making on the impacts of proposed execution to be included in the document will be prescribed by the Croatian Government.

End notes

- 1 The term “construction entities” is an official translation from Croatian into English and it refers to commercial, tourist centres, etc.
- 2 See Art. 3 and 10 of the Rule Book on EIA (NN 59/00).