

IMPLEMENTATION OF THE ENVIRONMENTAL IMPACT ASSESSMENT IN SERBIA IN THE EU INTEGRATION CONTEXT: CURRENT STATE AND RECOMMENDATIONS

Belgrade, 2014

WHAT IS THE IMPORTANCE OF THE ENVIRONMENTAL ASSESSMENT?

Serbia faces significant challenges in terms of environmental policy reform. These challenges are connected with the EU integration process, due to high EU environmental standards Serbia needs to comply with. One of the key environmental policy measures is the environmental assessment of projects (environmental impact assessment - EIA), as well as planning documents (strategic environmental assessment - SEA). Environmental assessment ensures that the competent authority will make more informed decisions. Thereby adverse environmental effects of projects and planning documents are prevented or reduced. Public participation is the crucial element in the procedure which ensures the flow of information from the civil society towards the competent authority and guarantees transparency and legitimacy of the decision-making process. Approximation of Serbia's legislation and institutional solutions with the EU standards concerning EIA and SEA is contested both in Serbia and by the EU. In order to determine the exact state, comprehensive research was conducted concerning implementation of the EIA Directive and to a certain extent SEA Directive in Serbia, primarily at the local level. The research focus was on institutional mechanisms and public participation. Besides implementation, certain attention was given to harmonization of Serbia's legislation with the EU law.

Successful EIA implementation significantly contributes to environmental protection and Serbia's vision to become an EU Member State.

RESEARCH RESULTS

Serbia's law is mainly aligned with the minimum EU standards however certain harmonization gaps were also identified. Deadlines for submission of requests for decision on the EIA study and for commencement of the project realization (following development consent – use permit) are too extensive. This can lead to a temporal incoherence between the EIA study decision and the decision on the use permit. There are no guarantees that public will receive a time-frame of 30 days to participate in the EIA decision-making process.

POLICY BRIEF



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KEY RECOMMENDATIONS

- Temporarily shift competences from the local to the national or the provincial level in cases when the local self-government is both the competent authority and the project carrier;
- Adjust the Law on Planning and Construction to the Law on EIA particularly with regard to the work of the technical commission for review of objects, as well as general referencing towards the Law on EIA in the Law on Planning and Construction concerning the issuance of use permits. Respect of the EU standards would further be ensured by referring to the EIA in provisions of the Law on Planning and Construction pertaining to the issuance of construction and location permits;
- In the Law on Planning and Construction or the Law on EIA, an obligation should be established that the public should be informed by the competent authority on the decisions concerning project realization, including explanation on how public consultations were taken into account in the process of issuing construction and use permits;

There are incoherencies and inconsistencies between the Law on EIA and the Law on Planning and Construction concerning the work of the technical commission for review of objects (preceding issuance of use permit), which can lead to negligence of the EIA results during the final decision-making for the proposed project. Solutions for prevention of conflicts of interest are not envisaged, particularly in cases when the competent authority is at the same time the project carrier (developer). An obligation that the competent authority shall inform the public with regard to screening decision is not clearly defined since obligation to provide explanation is not specified. Moreover an obligation to ensure that the information on the use permit decision and explanation of the pertinent decision is made available to the public is not defined under the law. There is no obligation that the competent authority shall inform the public electronically or ensure public accessibility of the relevant EIA information by electronic means. Finally with regard to the SEA, the main gap in the harmonization process pertains to the absence of obligation to ensure public informing concerning the SEA screening decision.

Institutions for EIA/SEA implementation exist and the procedures are being implemented. However additional efforts have to be invested in order to improve harmonization with the EU law and implementation of the EU standards. Problems of particular importance are: conflicts of interest, incoherencies and inconsistencies between the Law on EIA and the Law on Planning and Construction; insufficient informing by electronic means; absence of obligation to inform the public concerning decision on development consent.

In the local self-governments there are on average 1-2 civil servants responsible for the EIA and environmental protection in general and also the same number of the environmental inspectors. There are also cases when the functions of the officials are being doubled.

In terms of the EIA and the SEA implementation, the EU standards are mainly respected, albeit on the minimum level. The EIA and the SEA procedures are established and are being implemented. The appropriateness of the established procedures is generally low, primarily due to a small number of civil servants responsible for the EIA and the SEA, doubling of functions and deficiencies with regard to technical and administrative capacities. Although being at the low level, established institutions are nonetheless appropriate enough to be in accordance with the minimum EU standards. Forth-mentioned deficiencies can be brought into connection with the insufficient consultations with the local self-governments and the environmental NGOs during development of the EIA and the SEA regulations. The largest identified problem pertains to the prevention of conflicts of interest and that is the only criteria where Serbia does not comply with the EIA Directive even at the minimum level. Such condition is particularly a cause for concern when the local self-government is simultaneously a project carrier (developer). In terms of expertise, persons who prepare the EIA study and persons who evaluate the study (including officials responsible for screening and scoping) fulfil the minimum requirements of the EIA Directive. Nonetheless there is additional space to improve the expertise, the quality of the EIA study and ways in which persons who prepare the study are engaged. Various practices in terms of cooperation between persons in charge of the EIA procedure and those in charge of issuing construction and use permits were identified. Negative examples of such cooperation could be linked with the incoherencies and inconsistencies between the Law on EIA and the Law on Planning and Construction. Based on the research results, it is not possible to derive final conclusions on the extent to which the EIA results are taken into account in the subsequent decision-making procedures;

however it can be asserted that the minimum standards set in the EIA Directive are respected. With regard to surveillance regarding implementation of measures defined in the EIA procedure, main problems pertain to a small number of environmental inspectors, lack of technical capacities and the quality of work of the environmental inspectors. However the research also shows that the surveillance mechanisms exist, as well as that the efforts are being invested by the environmental inspectors to ensure implementation of environmental protection measures by the project carriers which is in accordance with the minimum EU standards.

Cooperation with concerned organs and organizations is on a medium level and in accordance with the minimum requirements of the EIA Directive. In terms of public informing, it is commendable that all local self-governments conduct some sort of public informing. However criticisms given by the civil society representatives are that this informing is usually formalistic and conducted only to fulfil the prescribed legal obligations. In most cases, public informing is conducted via printed media while approximately half of local self-governments inform the public through television or radio, while the use of internet is very low. Data received from local self-governments point out small citizen participation in public debates. Most of local self-governments and NGOs agree that lack of information is the key reason for low public participation. The stance of local self-governments is that opinions of the public concerned are mainly accepted while the opinion of the representatives of non-governmental sector is that these are actually rare cases. Moderate conclusion would be that public informing, public participation and consideration of public opinion is sufficient enough for the minimum conditions defined in the EIA Directive to be fulfilled, although additional improvements are certainly possible, especially concerning public informing by electronic means.

Three citizens on average participate in public debates pertaining to the EIA at the local level. Representatives of local self-governments and NGOs mainly agree that that primary cause for low public participation is that citizens lack relevant information. Approximately 10% of local self-governments use internet for public informing.

OPTIONS FOR FURTHER DEVELOPMENT OF EIA IMPLEMENTATION

In this study three options were considered which may have an overarching influence over the future EIA implementation: retaining the existing competences with additional improvements of the current system; integrating EIA procedures with those pertaining to use permits, including integration of institutions and capacities; new division of competences based on possible environmental impacts of the proposed project instead of being based on competences for issuing construction permits. By comparing three mentioned options, it can be concluded that in a short-term period, first option is the most feasible one, since it has already existed for ten years and additional reform efforts would not be significantly challenging. In a long-term period the third option would be the most preferable solution, primarily since the competences for the EIA would be in accordance with the scale of the potential environmental impact of specific projects and the capacities of the competent authorities (national, provincial and local). As for the second option, it is estimated that although containing positive features, the reform efforts would be too demanding compared with the benefits, and especially when compared with the first and the third option.

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- Shorten the time-frames for the project carrier to submit the request for consent for the EIA study, as well as the time-frames to initiate the project realization;
- Define a legal obligation for the competent authority to allocate at least 30 days for public consultations (submission of opinions, public review and public debate);
- Define a legal obligation that the public should be informed on reasons for making a concrete EIA screening decision;
- It is important to introduce mandatory informing of the public via electronic means by the competent authority and make the relevant information electronically accessible for the public, and
- Introduce an obligation under the law to inform the public with regard to SEA screening decision.





ABOUT THE PROJECT "THINK-ACT-IMPACT"

Research was conducted within the project "Think-Act-Impact: Ensuring Improved Implementation of EU Directives on Environmental Impact Assessment in Serbia". The project aims to improve implementation of the EU directives on environmental assessment of projects, plans and programmes particularly with regard to institutional reforms and public participation in the pertinent procedures. The project consists of both research and practical activities, primarily directed towards improvement of citizen participation. This study is part of research activities on which other activities are mainly based upon. The project is conducted by the European Policy Centre in Belgrade as a leading organization, together with two partner organizations, Ecological Centre "Habitat" and Serbian on the Move, and is financially supported by the Royal Norwegian Embassy in Belgrade and co-financed by the Ministry of Agriculture and Environmental Protection of the Government of the Republic of Serbia. More information about the project is available at: <http://www.europeanpolicy.org>.

LEADING ORGANIZATION:

European Policy Centre is a non-governmental, non-profit, independent think-tank, founded in 2011 by a group of professionals in the area of EU law, EU affairs, economics and public administration reform with a shared vision of changing the policy making environment in Serbia for the better.

CEP's mission is:

1. to stimulate research and analysis as a basis for decision-making, and
2. to provide high-quality alternative policy options aimed at advancing Serbia's EU accession process and positioning Serbia as an equal partner to the EU member states in terms of:
 - openness and accountability of democratic governance structures,
 - market regulation and performance, and
 - capacity to not only fulfil the obligations arising from EU membership but also make the most of the resulting rights and opportunities once EU membership is achieved.



More on information about the organization's activities is available at: www.cep.org.rs; <https://www.facebook.com/EuropeanPolicyCentre>.

INFORMATION ON PARTNER ORGANIZATIONS

Ecological Centre "Habitat" is an independent, non-profit organization, founded in 2007 in Vršac, with a mission to improve the relationship of the local communities towards the environment. The goal of the organization is use its knowledge, skills and dedication to assist local communities across Serbia in solving environmental problems.

Organization's area of work comprise local environmental protection policies, public participation in local decision-making, improvement of the environmental financing system, research and publication of studies, management of protected areas and management of certain waste streams.

More information about the organization's activities is available at: www.staniste.org.rs.

Citizen Association "Serbia on the Move" was established in 2009 with a mission to create a strong and responsible civil society through the motivation of individuals to actively participate in generation of changes which will improve their quality of life. The work of the organization is grounded on three principles:

1. Support to citizens,
2. Socially beneficial activism and
3. Transparency.

More information about the organization's activities is available at: www.srbijaupokretu.org.