

Questionnaire for the

REPORT OF **Albania FOR 2003-2005**
ON THE IMPLEMENTATION OF THE ESPOO
CONVENTION ON ENVIRONMENTAL IMPACT
ASSESSMENT IN A TRANSBOUNDARY CONTEXT
for the period mid-2003 to end of 2005

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PART I – CURRENT LEGAL AND ADMINISTRATIVE FRAMEWORK FOR THE IMPLEMENTATION OF THE CONVENTION

Please provide the information requested below in Part I, or revise any information relative to the previous report. Describe the legal, administrative and other measures taken in your country to implement the provisions of the Convention. This part should not be used to describe your experience of applying the Convention, i.e. just the framework for its implementation.

Article 2

General Provisions

DOMESTIC IMPLEMENTATION OF THE CONVENTION

1. *List the general legal, administrative and other measures taken in your country to implement the provisions of the Convention (Art. 2.2).*

Albania has approved the law on EIA since 2003, the law is based on the procedures of the directive 85/337 of EC, the law makes references also with the Convention and requires the application of it. Ministry of EFWA is the responsible authority for supervising and improving the process of EIA. In the Ministry was established and operates the Directory of EIA & Permits which is assisted from Regional Environmental Agencies. REAs accept requests for activities and after reviewing the EIA reports and other necessary documents. The package with all the materials including the REAs opinion is sent to the MFWFA for final reviewing and approval of environmental permit.

TRANSBOUNDARY EIA PROCEDURE

2. *Describe your national and transboundary EIA procedures and authorities (Art. 2.2):*
 - a. *Describe your EIA procedure and indicate which steps of the EIA procedure include public participation.*

The procedures of EIA starts with scoping and screening phase that is a procedure administrated from REAs. The public is able to participate in the scoping and screening phase of the process. The developer is required to consult the public once the EIA report is prepared and the public may give comments on the project. The other stage of public participation is the consulting that is required to be held from the local government with the public. The final but optional phase of public participation is the public debate that may be organised from the MFWFA.

- b. *Describe how the different steps of the transboundary EIA procedure mentioned in the Convention fit into your national EIA procedure.*

The law no 8934 date 5.9.2002" On environmental protection" in article 27 requires that in transboundary cases Albanian applies the require ments of the Convention. During 2007 was approved the following legal frame work:

- Law no. 9700, date 26.03.2007 "For environmetal protection from tranborder impacts "
- Decision of concils of Minister no. 1429 date 29. 01. 2008, "For aprprval of regulations and procedures for assesment of projects/activities with coniserable impacts on afacted parties"

- Guideline of the Minister no 5, date 3.11.2008 “For format of communication with affected parties for eia in transboundary context” .
- c. *List the different authorities that are named responsible for different steps of the transboundary EIA procedure. Also list the authorities responsible for the domestic EIA procedure, if they are different.*

Ministry of Environment and Regional Environmental Agencies

- d. *Is there one authority in your country that collects information on all the transboundary EIA cases under the Convention? If so, name it. If not, do you intend to establish such an authority?*

Not yet. might be in the future. This structure is likely to be under Ministry of Environment.

3. *Do you have special provisions for joint cross-border projects (e.g. roads, pipelines)?*

No

IDENTIFICATION OF A PROPOSED ACTIVITY REQUIRING EIA UNDER THE CONVENTION

4. *Is your country’s list of activities subject to the transboundary EIA procedure equivalent to that in Appendix I to the Convention?*

Yes

5. *Please describe:*

- a. *The procedures and, where appropriate, the legislation you would apply to determine that an “activity”, or a change to an activity, falls within the scope of Appendix I (Art. 2.3), or that an activity not listed should be treated as if it were (Art. 2.5);*

There is not yet any approved procedure and we apply directly the listed activities on the Appendix I

- b. *How a change to an activity is considered as a “major” change;*

According to law on eia the change of the technology, production capacity and happenig of the unforeseen adverse impacts of the activity.

- c. *How such an activity, or such a change to an activity, is considered likely to have a “significant” adverse transboundary impact (Art. 2.5, Guidelines in Appendix III); and*

NA

- d. *How you would decide whether it is “likely” to have such an impact. (Art. 2.3)*

This si done and deccribed in the EIA report.

PUBLIC PARTICIPATION

6. *Do you have your own definition of “the public” in your national legislation, compared to Article 1(x)? How do you, together with the affected Party, ensure that the opportunity given to the public of the affected Party is equivalent to the one given to your own public as required in Article 2, paragraph 6?*

We do have the definition of the public in several acts, regarding the arrangements of the public of the affected party there is not any approved procedure and in any case Albania will be based in the requirements of the Aarhus Convention.

Article 3

Notification

QUESTIONS TO PARTY OF ORIGIN

7. *Describe how you determine when to send the notification to the affected Party, which is to occur “as early as possible and no later than when informing its own public”? At what stage in the EIA procedure do you usually notify the affected Party? (Art. 3.1)*

As described in the decision of councils of Minister no. 1429 date 29. 01. 2008, after being informed by Regional Environmental Agency for an activity that is likely to have transborder impacts the Ministry within 10 days has to inform the affected Party.

8. *Describe how you determine the content of the notification? (Art. 3.2)*

The content of the notification is done according to the guideline of the Minister no 5, date 3.11.2008 “For format of communication with affected parties for eia in transboundary context”

9. *Describe the criteria you use to determine the time frame for the response to the notification from the affected Party (Art 3.3, “within the time specified in the notification”)? What is the consequence if an affected Party does not comply with the time frame? If an affected Party asks for an extension of a deadline, how do you react?*

According to the decision of councils of Minister no. 1429 date 29. 01. 2008 once the affected party is informed it has to express its interest for participation in EIA process within one month of its notification. If no interest is expressed by interested Party the process goes according to the national procedures as determined by law nr. 8990, date 23.01.2003 “For EIA”.

10. *Describe when you provide relevant information regarding the EIA procedure and proposed activity and its possible significant adverse transboundary impact as referred to in Article 3, paragraph 5. Already with the notification or later in the procedure?*

The same time with notification.

11. *How do you determine whether you should request information from the affected Party (Art. 3.6)? When do you normally request information from the affected Party? What kind of information do you normally request? How do you determine the time frame for a response from the affected Party to a request for information, which should be “prompt” (Art. 3.6)?*

If it results that according to the decision of councils of Minister no. 1429 date 29. 01. 2008, “For approval of regulations and procedures for assessment of projects/activities with considerable impacts on affected parties”.

All the issues of sharing of information and timeframe from the affected Party is agreed in the joint commission created between counties.

12. *How do you consult with the authorities of the affected Party on public participation (Art. 3.8)? How do you identify, in cooperation with the affected Party, the “public” in the affected area? How is the public in the affected Party notified (what kinds of media, etc are usually used)? What is normally the content of the public notification? Does the notification to the public of the affected Party have the same content as the notification to your own public? If not, describe why not. At what stage in the EIA procedure do you normally notify the public of the affected Party?*

Consultation process, identification of the "public" in the affected area, notification of the meetings and defining the relevant timeframe is done through the working program of the joint commission created between counties.

13. Do you make use of contact points for the purposes of notification as decided at the first meeting of Parties (ECE/MP.EIA/2, decision I/3), and listed on the Convention website at http://www.unece.org/env/eia/points_of_contact.htm?

According to the guideline of the Minister no 5, date 3.11.2008 "For format of communication with affected parties for eia in transboundary context" Albanian Ministry of Environment, Forest and Water Administration sends the information to the ESPOO focal point of affected Party and other planning and environmental authorities. Communication language is English.

14. Do you provide any information to supplement that required by Article 3, paragraph 2? Do you, furthermore, follow the proposed guidelines in the report of the first meeting of the Parties (ECE/MP/2, decision I/4)? If not, in what format do you normally present the notification?

The communication with the affected Party is done through the normal written communication procedures.

QUESTIONS TO AFFECTED PARTY

15. Describe the process of how you decide whether or not you want to participate in the EIA procedure (Art. 3.3)? Who participates in the decision-making, for example: central authorities, local competent authorities, the public and environmental authorities? Describe the criteria or reasons you use to decide?

According to the Law no. 9700, date 26.03.2007 "For environmental protection from transborder impacts". Minister of Environment through written communication expresses to counterpart from the Party of origin the request to take part in the in the eia process in the respective country.

16. When the Party of origin requests you to provide information relating potentially affected environment: (a) how do you determine what is "reasonably obtainable" information to include in your response; and (b) describe the procedures and, where appropriate, the legislation you would apply to determine the meaning of "promptly" in the context of responding to a request for information? (Art. 3.6)

In this case Albania uses provision foreseen in the law no. 8990, date 23.1.2003 "For eia"

Article 4

Preparation of the EIA documentation

QUESTIONS TO PARTY OF ORIGIN

17. What is the legal requirement for the content of the EIA documentation (Art. 4.1)?

- a) Objective of the project;
- b) Detailed objective description;
- c) Data on present environment of the area and in its vicinity where the project is implemented;
- c) Detailed description of all installations that are part of the project or will be used during its implementation;
- d) Construction plan and the deadlines of its implementation;
- dh) Description of engineered values that are constructed or enlarged and of necessary works for project implementation;

- e) Potential impacts on environment and proposed measures to prevent or bumper these impacts;
- ë) Monitoring program of project impact on environment;
- f) Conformity of the project with territory adjustment plan and with economic development plan of area where project will be implemented;
- g) Summary of consultations with local government organs, the public and environmental non-for profit organizations and of their opinions;
- gj) Rehabilitative measures in case of pollution and damage of environment as well as their cost;
- h) A copy of the license of natural or juridical person which has prepared the report of impact assessment on environment.

18. *Describe your country's procedures for determining the content of the EIA documentation (Art. 4.1).*

Regulated with Ordinance of the Minister

19. *How do you identify "reasonable alternatives" in accordance with Appendix II, alinea (b)?*

The law on eia requires that eia report for activities of anex 1 (full eia) should describe the alterantives for the proposed activity for location, technology, etc.

20. *How do you identify "the environment that is likely to be affected by the proposed activity and its alternatives" in accordance to Appendix II, alinea (c), and the definition of "impact" in Article 1(vii)?*

Provisons forseen in the law no. 8990, date 23.1.2003 "For eia". In the eia report are descibed the likely impacts and the environment that is likely to be affected by the proposed activity.

21. *Do you give the affected Party all of the EIA documentation (Art. 4.2)? If not, which parts of the documentation do you provide?*

The documetnation provided to the affected Party si defined by the Guideline of the Minister no 5, date 3.11.2008 "For format of comunication with afected parties for eia in tranboadrary context". The infromation cantains info for the project and its location and time frame (lifespan of the activity), likely adverse impacts foreseen, contacts of the proposers of the activity, contacts of the Albanian authorities to be involved and timeframe within it is expected to express interest of involvement.

22. *How is the transfer and reception of the comments from the affected Party organized? How does the competent authority in your country (as the Party of origin) deal with the comments? (Art. 4.2)*

All the coments and concerns expressed by effected Party will be conveyed to the decion taking Albanian authority for the proposed activity like to have adverse crossborder impacts. The decision of the competent authority should explan taking or not in consideration the cometns of the effected party.

23. *Describe the procedures and, where appropriate the legislation you would apply to determine the time frame for comments provided for in the words "within a reasonable time before the final decision" (Art. 4.2)? What is the consequence if the affected Party does not comply with the time frame? If an affected Party asks for an extension of a deadline, how do you react?*

Comments from the affected party will be collected as agreed in the working program of the joint commission created between countries.

24. *What material do you provide, together with the affected Party, to the public of the affected Party?*

A description of the information for the project and its location and time frame (lifespan of the activity), likely adverse impacts foreseen, mitigation measures proposed and the monitoring program.

25. *Do you initiate a public hearing for the affected public, and at what stage, whether in the affected Party, in your country or as a joint hearing? If a public hearing is held in your country, as Party of origin, can the public of the affected Party, public authorities, organizations or other individuals come to your country to participate?*

For consultations that will take place in Albania will be applied the legal provisions in place according to the decision of the council of ministers no.994, dated 02.07.2008) "for involvement of the public in the environmental decision making process". For the consultations to be done in the territory of the affected party it will be respected the local legislation or as agreed in the working program of the joint commission created between countries. In Albania local authorities and proposer of the activity are responsible for carrying out the consultation process and the proposer has to cover the costs. Participation is free and possible for everyone interested. The need and representation for different groups has to be agreed in the working program of the joint commission created between countries.

QUESTIONS TO AFFECTED PARTY

26. *Describe the procedures and, where appropriate, the legislation you would apply to determine the meaning of the words "within a reasonable time before the final decision", this being the time frame for comments (Art. 4.2)?*

This will be agreed in the working program of the joint commission created between countries.

27. *Who is responsible for the organization of the public participation in the affected Party? Is the public participation normally organized in accordance with your legislation as the affected Party, or with the legislation of the Party of origin, or with ad hoc procedures, or with bilateral or multilateral agreements?*

For consultations that will take place in Albania will be applied the legal provisions in place according to the decision of the council of ministers no.994, dated 02.07.2008) "for involvement of the public in the environmental decision making process". For the consultations to be done in the territory of the affected party it will be respected the local legislation or as agreed in the working program of the joint commission created between countries.

Article 5

Consultations

QUESTIONS TO PARTY OF ORIGIN

28. *At which step of the EIA procedure does the consultation in accordance with Article 5 generally take place? Describe the procedures and, where appropriate, the legislation you would apply to determine the meaning of "undue delay", with regard to the timing of entry into consultation? Do you normally set the duration for consultations beforehand? If there seems to be no need for consultation, how do you determine not to carry out consultations?*

Consultaion normally are carried out before applying for environmetal permit.

29. *On what level do you arrange for consultation: national, regional or local? Who usually participates in the consultation? Describe the responsibilities of the authorities involved. By what means do you usually communicate in consultations, for example by meeting, exchange of written communications?*

Depends on proposed activities. Normaly locally.

QUESTIONS TO AFFECTED PARTY

30. *On what level is the consultaion normally held: national, regional or local? Who normally participates in the consultation? By what means do you usually communicate in consultations, for example by meeting or by the exchange of written communications? How do you indicate if there is no need for consultations?*

It is mandatory that a consultaion process is held with interested parties prior to the request for permitting. The introduction of the activity and presentation of the finding of EIA report is done in open meetings and intereted parties are given 3 weeks time to expres their coments in writen or they can rise coments during the meeting.

Article 6

Final decision

QUESTIONS TO PARTY OF ORIGIN

31. *Describe what is regarded as the “final decision” to authorize or undertake a proposed activity (Art. 2.3). Do all projects listed in Appendix I require such a decision?*

Aproval of the activity by competent authority definitely different from structures of Ministry of Environment.

32. *How does the EIA procedure (including the outcome) in your country, whether or not transboundary, influence the decision-making process for a proposed activity? (Art. 6.1)*

The EIA procedure could modify the proposed acitvity or result in not approval of the activity by competent authorities.

33. *Are the comments of the authorities and the public of the affected Party and the outcome of the consultations taken into consideration in the same way as the comments from the authorities and public in your country (Art. 6.1)?*

No cases so far.

34. *How is the obligation to submit the final decision to the affected Party normally fulfilled? Does the final decision contain the reasons and considerations on which the decision is based? (Art. 6.2)*

No cases so far.

35. *If additional information comes available according to paragraph 3 before the activity commences, how do you consult with the affected Party? If need be, can the decision be revised? (Art. 6.3)*

No cases so far.

Article 7

Post-Project Analysis

36. *How do you determine whether you should request a post-project analysis to be carried out (Art. 7.1)?*

According to the law the entity that is implementing the project has to report periodically at Regional Environmental Agencies at least 4 times a year in written.

37. *Where, as a result of post-project analysis, it is concluded that there is a significant adverse transboundary impact by the activity, how do you inform the other Party and consult on necessary measures to reduce or eliminate the impact pursuant to Article 7, paragraph 2?*

Ministry of Environment has to inform the other party for the adverse transboundary impacts and requests the Party of origin to suspend the activity and review its decision for the activity and guaranty that this will not be repeated in the future.

Article 8

Bilateral and multilateral agreements

38. *Do you have any bilateral or multilateral agreements based on the EIA Convention (Art. 8, Appendix VI)? If so, list them. Briefly describe the nature of these agreements. To what extent are these agreements based on Appendix VI and what issues do they cover? If publicly available, also attach the texts of such bilateral and multilateral agreements, preferably in English, French or Russian.*

No

39. *Have you established any supplementary points of contact pursuant to bilateral or multilateral agreements?*

No

Article 9

Research programmes

40. *Are you aware of any specific research in relation to the items mentioned in Article 9 in your country? If so, describe it briefly.*

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Ratification of the amendments to the Convention and of the Protocol on SEA

41. *If your country has not yet ratified the first amendment to the Convention, does it have plans to ratify this amendment? If so, when?*

NA-

42. *If your country has not yet ratified the second amendment to the Convention, does it have plans to ratify this amendment? If so, when?*

Already ratified-

43. *If your country has not yet ratified the Protocol on SEA, does it have plans to ratify the Protocol? If so, when?*

Within 2005

PART II – PRACTICAL APPLICATION DURING THE PERIOD 2003-2005

Please report on your practical experiences of applying the Convention (not your procedures described in Part I), whether as Party of origin or affected Party. The focus here is on identifying the best practice as well as difficulties Parties encountered in applying the Convention in practice to enable Parties to share solutions. Parties should therefore provide appropriate examples highlighting application of the Convention and innovative approaches to improve application of the Convention.

CASES DURING THE PERIOD 2003-2005

44. *Do you have any practical experience of applying the Convention in this period (yes/no)? If you do not have any such experience, why not?*

No cases

45. *Does your national administration have information on the transboundary EIA procedures that were underway during the period? If so, please list these procedures, clearly identifying for each whether your country was the Party of origin or the affected Party. If you have not provided a list of transboundary EIA procedures in connection with previous reporting, also provide a list of those procedures. If possible, also indicate for each procedure why it was considered necessary to apply the Convention.*

No

46. *Are there other projects than those mentioned above for which a transboundary EIA procedure should have been applied, but was not? Explain why.*

No

47. *Provide information on the average durations of transboundary EIA procedures, both of the individual steps and of the procedures as a whole.*

No

EXPERIENCE OF THE TRANSBOUNDARY EIA PROCEDURE IN 2003-2005

48. *If you have had practical experience, has the implementation of the Convention supported the prevention, reduction or control of possible significant transboundary environmental impacts? Provide practical examples if available.*

No

49. *How have you interpreted in practice the various terms used in the Convention, and what criteria have you used to do this? Key terms include the following: “promptly” (Art. 3.6), “a reasonable time” (Art. 3.2(c), Art. 4.2), “a reasonable time-frame” (Art. 5), and “major change” (Art. 1(v)). If you are experiencing substantial difficulties interpreting particular terms, do you work together with other Parties to find solutions? If not, how do you overcome the problem?*

No

50. *Share with other Parties your experience of using the Convention. In response to each of the questions below, either provide one or two practical examples or describe your general experience. You might also include examples of ‘lessons learned’ in order to help others.*

- a. *How in practice have you identified transboundary EIA activities for notification under the Convention, and determined the significance and likelihood of adverse transboundary impact?*

No

- b. *Indicate whether a separate chapter is provided on transboundary issues in the EIA documentation. How do you determine how much information to include in the EIA documentation?*

There have been no cases so far to exercise this.

- c. *What methodology do you use in impact assessment in the (transboundary) EIA procedure (for example, impact prediction methods and methods to compare alternatives)?*

- d. *Translation is not addressed in the Convention. How have you addressed the question of translation? What do you usually translate? What difficulties have you experienced relating to translation and interpretation, and what solutions have you applied?*

There have not been so far cases to examine this. According to the Law no. 9700, date 26.03.2007 "For environmental protection from transborder impacts" the communication between two parties is done in English.

- e. *How have you organized transboundary public participation in practice? As Party of origin, have you organized public participation in affected Parties and, if so, how? What has been your experience of the effectiveness of public participation? Have you experienced difficulties with the participation of your public or the public of another Party? (For example, have there been complaints from the public about the procedure?)*

There have been no cases so far.

- f. *Describe any difficulties that you have encountered during consultations, for example over timing, language and the need for additional information.*

There have been no cases so far to comment on this.

- g. *Describe examples of the form, content and language of the final decision, when it is issued and how it is communicated to the affected Party and its public.*

There have been no cases so far to provide info on this.

- h. *Have you carried out post-project analyses and, if so, on what kinds of projects?*

Procedures and arrangements have to be determined and approved within 2008 as required from the Convention.

- i. *Do you have successful examples of organizing transboundary EIA procedures for joint cross-border projects? Please provide information on your experiences describing, for example, any bilateral agreements, institutional arrangements, and how practical matters are dealt with (contact points, translation, interpretation, transmission of documents, etc.).*

No

- j. *Name examples of good practice cases, whether complete cases or good practice elements (e.g. notification, consultation or public participation) within cases. Would you like to introduce your case in a form of Convention's fact sheet?*

No

CO-OPERATION BETWEEN PARTIES IN 2003-2005

51. *Do you have any successful examples of how you have overcome difficulties arising from different legal systems in neighbouring countries?*

No

EXPERIENCE IN USING THE GUIDANCE IN 2003-2005

52. *Have you used in practice the following guidance, recently adopted by the Meeting of the Parties and available on-line? Describe your experience of using these guidance documents and how they might be improved or supplemented.*

- a. *Guidance on public participation in EIA in a transboundary context;*

No

- b. *Guidance on subregional cooperation; and*

No

- c. *Guidelines on good practice and on bilateral and multilateral agreements.*

No

CLARITY OF THE CONVENTION

53. *Have you had difficulties implementing the procedure defined in the Convention, either as Party of origin or as affected Party? Are there provisions in the Convention that are unclear? Describe the transboundary EIA procedure as applied in practice, where this has varied from that described in Part I or in the Convention. Also describe in general the strengths and weaknesses of your country's implementation of the Convention's transboundary EIA procedure, which you encounter when actually applying the Convention.*

No

AWARENESS OF THE CONVENTION

54. *Have you undertaken activities to promote awareness of the Convention among your stakeholders (e.g. the public, local authorities, consultants and experts, academics, investors)? If so, describe them.*

No

55. *Do you see a need to improve the application of the Convention in your country and, if so, how do you intend to do so? What relevant legal or administrative developments are proposed or on-going?*

No

SUGGESTED IMPROVEMENTS TO THE REPORT

56. *Please provide suggestions for how the report may be improved.*

No