

**REPORT OF BULGARIA ON THE IMPLEMENTATION  
OF THE CONVENTION ON ENVIRONMENTAL  
IMPACT ASSESSMENT IN A TRANSBOUNDARY  
CONTEXT**

in the period 2006–2009

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

*In this part, please provide the information requested, 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 describe the framework for your country's implementation, and not experience in the application of the Convention.*

## 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).*

Environmental Protection Act (State Gazette, No 91/2002, last amendment State Gazete No 103/2009)

EIA Ordinance (State Gazette No. 25/2003, last amended State Gazete No 80/2009)

2. *Indicate any further measures to implement the provisions of the Convention that are planned for the near future.*

There are further ammendments in both of the above acts, which will take place in 2010.

#### TRANSBOUNDARY ENVIRONMENTAL IMPACT ASSESSMENT PROCEDURE

3. *Describe your country's national and transboundary environmental impact assessment (EIA) procedures and authorities (art. 2.2):*

- a. *Describe the EIA procedure in your country and indicate which steps of the EIA procedure include public participation;*

The EIA procedure is conducted in the following steps:

- notification to the competent environmental authorities and conserved public;
- screening;
- scoping;
- consultations;
- preparation and quality review of the EIA report;
- organizing and holding the public hearing;
- issuing the EIA decision;
- control of the implementation of the conditions set in the EIA decision.

- b. *Describe how the different steps of the transboundary EIA procedure set out in the Convention fit into your country's national EIA procedure;*

The transboundary EIA procedure required by the Convention is fully transposed in the national environmental legislation.

- c. *List the different authorities that are named responsible for different steps of the transboundary EIA procedure (notification, consultation between Parties, public participation, etc.). Also list the authorities responsible for the domestic EIA procedure, if they are different;*

Ministry of Environment and Water

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

The Ministry of Environment and Water, Department of EIA and Environmental assessment, Preventative activity Directorate, collects the information.

4. *Does your country have special provisions for joint cross-border projects (e.g. roads, pipelines)?*

No, there aren't special provisions. The possibility for Joint EIA is to organize the EIA procedure jointly, including preparation of the EIA documentation. The competent authorities of both countries agree to carry out a common EIA for the project as a whole. Later on each of the two Parties will take due account of the outcome of this common EIA procedure in the final decision-making that is required for the development consent/construction permit of that part of the project on its own side of the border.

#### IDENTIFICATION OF A PROPOSED ACTIVITY REQUIRING ENVIRONMENTAL IMPACT ASSESSMENT UNDER THE CONVENTION

5. *Is appendix I to the Convention transposed into your country's national legislation? Does your country's legislation already cover the revised appendix I in the second amendment (ECE/MP.EIA/6, decision III/7), and if so, how? Please describe any differences between the national list and appendix I to the Convention. Please explain how your country interprets terms such as "large" and "major" used in appendix I (including in items 4, 8, 11, 14, 16, 17 and, as appropriate, 22).*

The list of activities subject to EIA (incl. transboundary EIA) is made according to the Appendix I of the Convention and Annexes I and II of the Council Directive 97/11/EC amending Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment. The list is appendix to the Environmental Protection Act (EPA) and specifies the capacity/dimensions of the installations, subject to mandatory EIA. For installations with smaller capacity/dimensions the need for an EIA is decided case by case during the screening procedure.

6. *Please describe:*

- a. *The legislation and, where appropriate, the procedures your country 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);*

According to Bulgarian environmental legislation, the developer of a development activity shall inform the competent authority (the Ministry of Environment and Water) for the proposal. The competent authority determines, on the bases of the information provided by the proponent, whether the activity falls within the scope of Appendix I, and whether it is likely to cause a significant adverse impact, including transboundary.

According to the Convention (Art. 2, para. 5) and the Bulgarian EIA Ordinance (art. 25, para. 3), the concerned Parties shall, at the initiative of any such Party, enter into discussion on whether one or more proposed activities not listed in Appendix I is or are likely to cause a significant adverse transboundary impact and thus should be treated as if it or they were so listed. In this case Bulgaria prefers to describe the detailed procedure in a bilateral agreement.

- b. *How your country conducts transboundary EIA cooperation (through points of contact, through joint bodies or within bilateral or multilateral agreements);*

The transboundary EIA cooperation is generally conducted through points of contact.

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

A change to an activity listed in Appendix I may be classified a “major” change as a result of screening of the investment proposal on a case-by-case basis under specific criteria (description of the main processes including size, capacity, throughput, input and output; resources used in construction and operation; characteristics of the potential impact, public interest in the proposal etc.). Consultation between the proponent, the public concerned, other organizations and the competent environmental authority will be of assistance to the competent authority in making a justified screening decision.

- d. *How such an activity, or such a change to an activity, is considered “likely” to have a “significant” adverse transboundary impact (art. 2.3 and 2.5, and the Guidelines in appendix III).*

For the projects or activities listed in Annex 1 to the EPA, including the activities listed in Appendix I to the Espoo Convention, EIA is mandatory. For these projects the competent authority will have to determine only whether any significant adverse environmental impacts could also be transboundary. There is no specific procedure provided in Bulgarian environmental legislation, nor a practice that is applied to determine whether an activity listed in Appendix I is considered to have a “significant” adverse transboundary impact. If the activity is listed in Appendix I, a mandatory EIA shall be conducted. A major change to such an activity is considered case-by case.

The competent authority may determine that an activity, not listed in Appendix I or a major change to such an activity, has a “significant” transboundary impact by reference to Appendix III to the Convention and to article 93, paragraph 4, of the Bulgarian Environmental Protection Act, having regard to the following criteria:

- Characteristics of the proposed construction, activities and technologies, such as size, productivity, scope, inter-relation and integration with other proposals, use of natural resources, waste generation, environmental pollution and violations, as well as risk of accidents;
- Location, including sensitivity of the environment, existing land use, relative availability of appropriate areas, quality and regenerative capacity of the natural resources in the region;
- Reproductive capacity of the ecosystem in the natural environment;
- Characteristics of the potential impacts, such as territorial coverage, affected population, including transboundary impacts, nature, scope, complexity, probability, duration, frequency, and rehabilitation capacity; and
- Public interest in the proposed construction, activities and technologies.

Developer of the investment proposal is obliged to notify in writing the competent authority – MOEW about his investment intention in the course of pre-investment inquiries. The notification includes brief description of the proposal, geographical location, impacts on the protected areas (if there are in nearness), possible transboundary impacts etc.

On the grounds of the notification (especially on the description of possible transboundary impacts) and using the criteria set in Art. 93 (4) of EPA the competent

authority determines whether the investment proposal is likely to cause a significant adverse transboundary impact.

## PUBLIC PARTICIPATION

7. *Does your country have its own definition of “the public” in national legislation, compared to article 1(x)? How does your country, 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 country’s public as required in article 2, paragraph 6?*

The definition of "the public" is given in EPA, par.1, point 24.

According to Bulgarian Environmental legislation (EIA Ordinance) the EIA procedure shall be determined by discussion between the Concerned Parties case by case. The Concerned Parties shall ensure that the public of the affected Party in the areas likely to be affected is informed.

## Article 3

### Notification

#### QUESTIONS TO PARTY OF ORIGIN

8. *Describe how your country determines 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 does your country usually notify the affected Party (art. 3.1)*

According to the Environmental Protection Act, article 95, paragraph 1, the developer of the investment proposal informs the competent authority and the public concerned of the proposal at the earliest stage of the initiative. The Minister of Environment and Water determines whether the proposed activity is falling under the provisions of Appendix I of the EPA and of the Convention or the activity is likely to cause significant adverse environmental impacts including transboundary. If the response is positive, a need to conduct an EIA is proved the minister of environment and water informs the affected Party.

9. *Does your country provide any information to supplement that required by article 3, paragraph 2?*

In practice, the competent authority may add any additional information that appears useful, including the information specified in Article 3, paragraphs 5 (a) and (b), of the Convention.

10. *Does your country use the format for notification (as decided by the first meeting of the Parties, decision I/4, in document ECE/MP.EIA/2)? If not, in what format does your country normally present the notification?*

Yes, the proposed guidelines are followed.

11. *Describe the criteria your country uses 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 does your country react?*

The time frame for a response is determined by the following criteria: territorial boundaries of the proposed activity; complexity of the activity; and characteristics of the potential impacts, such as territorial coverage, affected population, including transboundary impacts, nature, scope, complexity, probability, duration, frequency and rehabilitation capacity.

It is the obligation of the competent authority to specify a reasonable time frame for a response. Normally a period of two to four weeks (from the receiving of the notification) seems appropriate. The competent authority will consider inter alia bilateral practice. With regard to Article 3, paragraph 4, of the Convention, the competent authority has to decide whether a transboundary EIA procedure will be carried out if an affected Party does not comply with the time frame.

The competent authority has to decide on an extension of a deadline. With regard to best practice in transboundary cooperation, an extension may be not a problem if there will be no delay caused in the procedure for issuing the development consent/construction permit.

12. *Describe when your country provides 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 information in accordance with Article 3, paragraph 5 (a), is submitted with the notification. Upon receipt of a response from the affected Party indicating its desire to participate in the EIA procedure, this procedure is conducted having regard to the transboundary context, according to national EIA Ordinance, article 25, paragraph 2 (b).

13. *How does your country determine whether it should request information from the affected Party (art. 3.6)? When does your country normally request information from the affected Party? What kind of information does your country normally request? How does your country determine the time frame for a response from the affected Party to a request for information, which should be “prompt” (art. 3.6)?*

The requested information depends on the territorial boundaries and on the complexity and significance of the impact. The information from the affected Party is requested when the information about the environment likely to be significantly affected by the proposed activity and its alternatives is insufficient, or a need is determined as the result of the identification of gaps in knowledge and of uncertainties encountered in compiling the required information.

No experience as yet, but requested information would normally relate to the potential environmental impacts and to the affected population.

“Promptly” is determined as meaning within the time specified in the request to the affected Party.

14. *Please describe:*

- a. *How your country cooperates with the authorities of the affected Party on public participation (art. 3.8), taking into account that the Party of origin and affected Party are both responsible;*

The Minister of Environment and Water notifies the affected Party at the earliest possible stage of the development proposal.

Therefore, both Parties have to work together, for example in order to identify the public in the affected area. Due to the fact that the Party of origin does not have any administrative powers on the territory of the affected Party, some steps of the procedure (e.g. formal announcements, hearings on the territory of the affected Party) have to be carried out by the competent authority of the affected Party, but always with the possible support by the competent authority of the Party of origin.

- b. *How your country identifies, in cooperation with the affected Party, the “public” in the affected area;*

The competent authority of the affected Party shall identify the “public”.

- c. *How the public in the affected Party is notified (what kinds of media, etc are usually used). What is normally the content of the public notification?;*

The public is notified via the media or by publishing the notification in a newspaper. The notification is short and presents the characteristics of the proposed activity. The public notification should contain clear information about the territorial and temporal boundaries of the proposed activity, a short description of activity itself (type of activity, technology used, etc.), a description of the purpose of activity, and brief information on the expected environmental impacts.

- d. *Whether the notification to the public of the affected Party has the same content as the notification to your country's public. If not, describe why not. At what stage in the EIA procedure does your country normally notify the public of the affected Party?*

The notification to the public of affected Party should have the same content as the notification to public of the Party of origin because they need access to equal levels of information and equal notification to be guaranteed.

The public is notified at the early notification stage. The notification is addressed to the contact point of the affected Party and the notification has to be forwarded to the public of the affected Party.

15. *Does your country 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 as listed on the Convention website ([http://www.unece.org/env/eia/points\\_of\\_contact.htm](http://www.unece.org/env/eia/points_of_contact.htm))?*

Yes, the points of contact are made use of in this way.

#### QUESTIONS TO AFFECTED PARTY

16. *Describe the process of how your country decides whether or not to participate in the EIA procedure (art. 3.3)? Who participates in the decision-making, e.g. central authorities, local competent authorities, the public, environmental authorities? Describe the criteria or reasons your country uses to decide.*

The criteria that Bulgaria used to decide whether it should participate in an EIA procedure are set out in article 93 (4) of the EPA and correspond to Appendix III to the Convention. They are:

- Characteristics of the proposed construction, activities and technologies, such as: size, productivity, scope, inter-relation and integration with other proposals, use of natural resources, waste generation, environmental pollution and violations, as well as risk of accidents; locality, including sensitivity of the environment, existing land use, relative availability of appropriate areas, quality and regenerative capacity of the natural resources in the region; reproductive capacity of the ecosystem in the natural environment, especially in: areas and habitats protected by a law, mountain areas and woodlands, wetlands and coastal areas, areas with excessive pollution levels, heavily urbanized areas, protected areas of stand-alone or cluster cultural assets, designated according to the procedure established by the Cultural Assets and Museums Act, areas and/or zones and sites enjoying a special sanitation status or subject to sanitary protection; characteristics of the potential impacts, such as territorial coverage, affected population, including transboundary impacts, nature, scope, complexity, probability, duration, frequency, and rehabilitation capacity; public interest in the proposed construction, activities and technologies.

According to Article 98 (2) of the EPA the minister of environment and water is the competent authority for the decision-making in the case when Bulgaria is an affected party. The public and other concerned parties may participate in this process.



17. *When the Party of origin requests your country to provide information relating to the potentially affected environment, how does your country determine what is “reasonably obtainable” information to include in its response? Describe the procedures and, where appropriate, the legislation your country that would apply in determining the meaning of “promptly” in the context of responding to a request for information (art. 3.6)*

“Reasonably obtainable” information is unclassified information about the location, including existing land use, relative availability of appropriate areas, quality and regenerative capacity of the natural resources in the region; areas and habitats protected by law, mountain areas and woodlands, wetlands and coastal areas, areas with excessive pollution levels, heavily urbanized areas, protected areas of stand-alone or cluster cultural assets, areas and/or zones and sites with a special sanitation status or subject to sanitary protection; characteristics of the potential impacts, such as territorial coverage, affected population, nature, scope, complexity, probability, duration, frequency and rehabilitation capacity.

“Promptly”: within the time frame specified in the request from the affected Party. The deadline of the response depends on the content and kind (text or graphic) of the requested information and whether this information is available in a raw or pre-processed form or if it has to be expressly processed.

18. *Please describe:*

a. *How your country cooperates with the authorities of the Party of origin on public participation (art. 3.8), taking into account that the Party of origin and affected Party are both responsible;*

In accordance with Article 98 (2) of the EPA the minister of environment and water is responsible for the public access to the EIA documentation supplied by the Party of origin and for sending the results of the this access to the competent authority of the party of origin.

b. *How your country identifies the “public” in the affected area;*

Usually "the public" is the population of the nearest cities/villages and their organizations; different NGO's, etc.

c. *How the public is notified (e.g. what kinds of media, etc., are usually used). What is normally the content of the public notification?;*

The notification, received from the country of origin, is submitted to the public through the MOEW web-page.

d. *At what stage in the EIA procedure does your country normally notify its public?*

As soon as the notification from the country of origin is received.

## **Article 4**

### ***Preparation of the environmental impact assessment documentation***

#### **QUESTIONS TO PARTY OF ORIGIN**

19. *What is the legal requirement for the minimum content of the EIA documentation (art. 4.1, appendix II)?*

The requirement for the content of EIA documentation (EIA report) is set in the Art. 96(1) of Environmental Protection Act and in Art. 14(1) of the EIA Ordinance on the terms and

conditions for carrying out EIA. These provisions implement inter alia the requirements of the Espoo Convention and of the EIA Directive regarding the content of the EIA documentation.

20. *Describe your country's procedures, if any, for determining the content of the EIA documentation on a case-by-case basis (scoping procedure) (art. 4.1).*

The developer of a development activity shall prepare a terms of reference for scope of the EIA report. The competent environmental authority shall be consulted and make a statement on the terms of reference within a month. Consultation between the proponent, other organizations and concerned authorities will be of assistance to the competent authority in making a statement on the content of the EIA report.

21. *How does your country identify "reasonable alternatives" in accordance with appendix II, paragraph (b)?*

"Reasonable alternatives" are the alternatives that will ensure the development of an activity with minimum adverse impacts. The most important alternatives are those that the developer has studied during the planning of the project and during the preparation of the EIA documentation.

22. *How does your country identify "the environment that is likely to be affected by the proposed activity and its alternatives" in accordance to appendix II, paragraph (c), and how does it define "impact" in accordance with article 1(vii)?*

The "environment that is likely to be affected by the proposed activity and its alternatives" should be identified on the basis of the characteristics of the proposed construction, activities and technologies, such as: size, productivity, scope, inter-relation and integration with other proposals, use of natural resources, waste generation, environmental pollution and violations, as well as risk of accidents and on the basis of the location, including sensitivity of the environment and existing land use. The most important tool for this identification are studies by the competent experts preparing the EIA documentation.

23. *Does your country give the affected Party all of the EIA documentation (art. 4.2)? If not, which parts of the documentation does your country provide?*

Yes, we provide the whole EIA documentation to the affected Party.

24. *How does your country cooperate with the authorities of the affected Party on distribution of the EIA documentation and the submission of comments (art. 4.2), taking into account that the Party of origin and affected Party are both responsible? How does the competent authority in your country (as the Party of origin) deal with the comments (art. 4.2)?*

The competent authorities of both Parties have to cooperate closely. The Party of origin is responsible for the submission of the EIA documentation, if requested in an electronic format and as well in a paper version, to the affected Party. The transfer and reception of comments on the EIA documentation are done between the relevant Environment Ministries (points of contact) from the concerned Parties. The comments of the authorities and of the public of the affected Party should be sent to the Bulgarian Ministry of environment and water. The comments will be assessed and taken into account in the EIA decision.

25. *Describe the procedures and, where appropriate, the legislation that define the time frame for comments provided "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 does your country react?*

The determination of the time frame depends on the term for taking of the EIA decision which is up to 45 days from the date of the public hearing. The competent authority has to

decide whether comments received after the deadline should be considered. If they contain important new information with great relevance for the EIA decision and this decision was not already taken, the information will be taken into account.

Due to time frames laid down in the national legislation an extension of the deadline usually will not be possible. The affected Party asking for an extension, will be informed of this legal situation.

26. *What material does your country provide, together with the affected Party, to the public of the affected Party?*

For the public of the affected Party the same documents will be available as for the public in the Party of origin. This includes the whole EIA documentation elaborated at each step of the procedure. Later on the EIA decision will be made available to the public of the affected Party.

27. *Does your country 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?*

The initiative for a public hearing in the affected Party is discussed between the concerned Parties case by case or through bilateral EIA agreements. According to Ordinance on EIA the public of the affected Party, public authorities, organizations or other individuals could take part in the public hearings in the Party of origin.

A joint hearing with participation of public from the affected Party and Party of origin is organized when there is a joint EIA. Usually the public hearing is organized separately in the affected Party and in the Party of origin. The representatives of the competent authority and the public from the affected Party could participate in the discussion in the Party of origin as well as the opposite.

#### QUESTIONS TO AFFECTED PARTY

28. *Describe the procedures and, where appropriate, the legislation your country 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)?*

The time-frame for comments depends on the legislation of the Party of origin. The Espoo Convention provides for an equal treatment of the public and of authorities, affected in their environmental-related tasks by the project, in both Parties. Therefore the timing of the consultation phase has in principle to follow the legislation of the Party of origin.

29. *How does your country cooperate with the authorities of the Party of origin on the distribution of the EIA documentation and the submission of comments (art. 4.2), taking into account that the Party of origin and affected Party are both responsible?*

See the answers to the questions 24, 18 (a) and 14 (a).

Close cooperation of the competent authorities of both Parties is needed. There shall be in principle no difference between a public participation in a domestic EIA and in a transboundary EIA, a part from the fact that some special requirements due to the legislation of the Party of origin might be required.

30. *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, with the legislation of the Party of origin, with ad hoc procedures, or with bilateral or multilateral agreements?*

The public participation normally shall be organized in accordance with the legislation of the affected Party or through bi/multilateral agreements.

## Article 5

### Consultations

#### QUESTIONS TO PARTY OF ORIGIN

31. *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 your country would apply to determine the meaning of “undue delay”, with regard to the timing of the entry into consultation? Does your country normally set the duration for consultations beforehand? If there seems to be no need for consultation, how does your country determine not to carry out consultations?*

Consultations are possible during the whole transboundary EIA procedure. Article 5 of the Convention indicates that consultations shall take place immediately after the completion of the EIA documentation. The more appropriate time seems to be after the affected Party has given its comments on the EIA documentation and the Party of origin has had enough time to assess these comments. The Parties have to agree on a reasonable time-frame for the duration of consultations taking into account legal requirements regarding decision-making. Nevertheless usually any timing depends on the nature of the significant transboundary impacts in question and on the comments submitted by the affected Party in a specific case. Under the Espoo Convention the Party of origin has to offer consultations in any case. Consultations are not needed, if the affected Party confirms this or does not react to such an offer. Even after a consultation is initiated, the Parties together can later on agree that consultations are not needed anymore, because the issues at stake are settled in the interim. Furthermore it seems to be possible that the affected Party in its comments on the EIA documentation already indicates that consultations will not be needed - in such a scenario even the offer of consultations by the Party of origin would not be required.

32. *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?*

The consultations are arranged on governmental level as well as on regional or local level depending on the scope and potential environmental impacts of the proposed activity. The authorities with specific environmental responsibilities on central, regional or local level and concerned public from the Party of origin and affected Party usually take a part in consultations. The authorities mentioned provide information and clarify the specific requirements regarding the scope and content the EIA documentation. The consultations are conducted on meetings between the Concerned Parties as well as through exchange of written communications.

#### QUESTIONS TO AFFECTED PARTY

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

The procedure is identical to the case that Bulgaria would be the Party of origin. The consultations are held on governmental level as well as local level depending on the scope and potential environmental impacts of the proposed activity. In the case Bulgaria has

experienced, the competent environmental authorities, other interested authorities, environmental NGOs and public participate in consultations. The consultations are conducted on meetings between the Concerned Parties as well as through exchange of written communications. If there is no need for a consultation the Party of origin should be informed about this.

## Article 6

### *Final decision*

#### QUESTIONS TO PARTY OF ORIGIN

34. *For each type of activity listed in appendix I, identify what is regarded as the "final decision" to authorize or undertake a proposed activity (art. 6 in conjunction with art. 2.3); also provide the term used in the national legislation in the original language. Do all projects listed in appendix I require such a decision?*

The document regarded as the "final decision" in the case of construction generally is the construction permit issued by the chief architect at the municipality.

For some of the projects, listed in appendix I, the "final decision" will be issuing of a permit under the special legislation, regulating this kind of activities. Such permits are issued for water-management projects, waste-management projects, projects in the energy sector, etc. For projects like mining the final decision is a decision of Council of Ministers for granting a concession.

For all kind of projects listed in appendix I such a decision (final) is needed.

35. *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 decision is obligatory for final approval of investment proposal. The investment proposal should be approved only after positive EIA decision, issued by the competent authority.

36. *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 the public in your country (art. 6.1)?*

There can be obviously no distinction between the comments of the authorities and the public of the Party of origin and the authorities and the public of the affected Party. The only practical difference may be that the comments of the authorities and the public of the affected Party will be in principle more related to the transboundary impacts and that the comments of the authorities and the public of the Party of origin will be in principle more related to the impacts on its own territory.

37. *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)*

The affected Party will receive (by mail) the whole EIA decision on paper signed by the minister of environment and water. Every EIA decision is announced on the MOEW webpage.

According to the EPA, article 99, the EIA decision shall contain the grounds of fact and law on which the decision is delivered also the reasons on which the decision is based.

38. *If additional information becomes available according to article 6, paragraph 3, before the activity commences, how does your country consult with the affected Party? If need be, can the decision be revised? (art. 6.3)*

No practical experience yet. In principle the competent authority of the Party of origin, responsible for the granting of the EIA decision, would contact the competent authority in the affected Party, that was involved in the EIA procedure, informing about the new information and start a consultation process.

The Administrative-procedure code allows revision of the administrative act - the EIA decision under a certain conditions.

## **Article 7**

### ***Post-Project Analysis***

39. *How does your country determine whether it should request a post-project analysis to be carried out (art. 7.1)?*

The Environmental Protection Act stipulates in Art.100 the requirements for PPA, as an obligation of the competent authorities (the Minister of Environment and Water and/or the Director of the Regional Inspectorate of Environment and Water) to oversee the implementation of the remediation measures described in the EIA report and the compliance with the conditions specified in the EIA decision.

The requirement for carrying out a PPA in case of a transboundary EIA is set in Art.25 of the Ordinance. It stipulates the order of the steps which Bulgaria should follow if it is a Party of origin. Point 12 specifies the control over implementation of the EIA decision: “where explicit preliminary agreement exists, the competent authority of the Party of origin shall notify the affected party about the implemented measures for control and the conclusions made.”

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

There is no legal provision in the national EIA legislation. Provisions concerning post-project analysis are set in the conditions of the EIA decision. No practical experience with the results of the post-project analysis.

## **Article 8**

### ***Bilateral and multilateral agreements***

41. *Does your country have any bilateral or multilateral agreements based on the 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.*

A multilateral agreement for the countries in South-East Europe has been signed by 7 countries at the 4-th Meeting of Parties to the Convention (Bucharest, Romania 2008) on 20 May 2008. Bulgaria has ratified the agreement on 23 Jan 2009.

42. *Has your country established any supplementary points of contact pursuant to bilateral or multilateral agreements?*

Not yet.

## Article 9

### *Research programmes*

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

No, we do not have specific research programmes.

## **Ratification of the amendments to the Convention and of the Protocol on Strategic Environmental Assessment**

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

Bulgaria has ratified the 1<sup>st</sup> amendment on 25.01.2007.

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

Bulgaria has ratified the 2<sup>nd</sup> amendment on 25.01.2007.

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

Bulgaria has ratified the Protocol on SEA on 25.01.2007.

## **PART TWO – PRACTICAL APPLICATION DURING THE PERIOD 2006–2009**

*Please report on your country's practical experiences of applying the Convention (not your country's procedures described in part one), whether as Party of origin or affected Party. The focus here is on identifying good practices as well as difficulties Parties have encountered in applying the Convention in practice; the goal is to enable Parties to share solutions. Parties should therefore provide appropriate examples highlighting application of the Convention and innovative approaches to improve its application.*

### CASES DURING THE PERIOD 2006–2009

47. *Does your country's national administration have information on the transboundary EIA procedures that were under way 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 your country does not have any experience of applying the Convention, why not?*

Bulgaria as a party of origin:

- Investment proposal for extraction of sand and rubble from the Danube river, km 462,0-459,4 in the area of Babovo village, Municipality of Slivo pole and km 512,0-508,0 in the area of Pirgovo village, Municipality of Ivanovo. The notification to Romania was sent in April 2009. Romania express will for participation in the EIA procedure which is not finished yet.
- Investment proposal for "LOW SULFUR CRUDE OIL PROCESSING PLANT WITH ANNUAL CAPACITY OF 66,000 TONS" in the town of Rouse. The notification was sent to Romania in April 2008. Romania express will for participation in the EIA procedure which was stopped from the proponent.
- Investment proposal for "Construction of refinery for processing of crude oil to end products" in the town of Silistra. The notification to Romania was sent in July 2006.

Romania express will for participation in the EIA procedure which was finished in December 2006 (EIA Decision No15-8 from 14.12.2006). All procedural steps of the EIA procedure were followed including consultations and public hearing.

Bulgaria as an affected party:

- Notification from Romania for project "Dust landfill resulted from the gas treatment instalation TENARIS SILCOTUB-S.C.DONASID S.A. CALARASI" received in August 2006. The response is that Bulgaria will not participate in the EIA procedure.

- Notification from Romania for project "Construction of Chernavoda NPP 3and 4 units" received in January 2006. Bulgaria expressed willingness for participation in the EIA procedure and took part in it. All procedural steps of the EIA procedure were followed including consultations and public hearing. The final comments and proposals were sent to Romania for taking into account in the final decision in August 2008.

- Notification from Serbia for the project "Extraction of phosphorite ore from "Lesina" deposit near Bosilegrad and production of phosphate concentrate" received in September 2009. Bulgaria expressed willingness for participation in the EIA procedure. No further information was submitetd from Serbia up to now.

- Notification from Romania for "Transboundary impact of the development of passinger river transport between Romania and Bulgaria" received in December 2009. The response is that Bulgaria will not participate in the EIA procedure.

Bulgaria as an affected party and party of origin (joint cross-border project):

- Notification from Romania for project "Improving the navigation conditions on the Bulgarian-Romanian common sector of the Danube" received in August 2008. Bulgaria express willingness for participation in the EIA procedure. No further information was submitetd from Romania up to now.

48. *Does your country object to the above list of transboundary EIA procedures being included in a compilation of such procedures to be made available on the website of the Convention? (Indicate "yes" if you object.)*

No

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

Bulgarian authorities do not have information about such a project.

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

In case when Bulgaria is country of origin: The duration of the EIA procedure in transboundary context depends on the terms set in the national legislation. Usually the duration of the whole procedure is about 9 to12 months assigned as follows: 1 month for the notification; 2 months for the scoping (including consultations); 3 months for the peparation, submission and assessment of the quality of the EIA report; two months for organization and holding of the public hearing; two months for taking the EIA decision and sending it to the affected party.

In case when Bulgaria is an affected party the duration of the procedure depends on the party of origin.



51. *If your country has 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.*

See the answer to question 47.

In principle the EIA is a tool to strengthen the consideration of environmental aspects in the process of adoption and realization of a certain project. The conditions from the EIA decision are mostly specified for the the phases of design, construction and operation.

52. *How has your country interpreted in practice the various terms used in the Convention, and what criteria has your country used to do this? Key terms include the following: “major change” (art. 1 (v)), “a reasonable time” (art. 3.2(c), art. 4.2), “promptly” (art. 3.6) and “a reasonable time frame” (art. 5). (Do not provide references to answers to earlier questions 6 (b), 11, 13, 25 and 31.) If your country experiences substantial difficulties interpreting particular terms, does your country work together with other Parties to find solutions? If not, how does your country overcome the problem?*

No difficulties. We do not have any problems with these terms in the practical application of the Espoo Convention. If any problem would occur, the Ministry of environment and water will try to find the solution in the framework of the relevant legislation and in cooperation with the competent authority of the affected Party.

53. *Please share with other Parties your country’s experience of using the Convention in practice. In response to each of the questions below, either provide one or two practical examples or describe your country’s general experience. You might also include examples of “lessons learned” in order to help others.*

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

See the answers to questions 6, 22 and 47.

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

The information which should be included in the EIA documentation (report) is determined by Art. 96 (1) of EPA.

- c. *What methodology does your country use in impact assessment in the (transboundary) EIA procedure (e.g. impact prediction methods and methods to compare alternatives)?;*

Primarily it is the task of the developer to prepare the EIA documentation based on the results of the scoping phase as summarized by the competent authority. Usually the experts which are involved in the preparation the EIA reports use different approaches depending on the environmental components. The impact prediction methods are mainly used for general assessment. The matrix method is also used.

- d. *Translation is not addressed in the Convention. How has your country addressed the question of translation? What does your country usually translate? What difficulties*

*has your country experienced relating to translation and interpretation, and what solutions has your country applied?;*

Consultation between the Concerned Parties is held in English unless other is not specified by bilateral agreements.

According to the EIA Ordinance the proponent is obliged to submit the translation of non-technical summary of the EIA report also the translation of EIA report or part of them if it is negotiated.

- e. *How has your country organized transboundary public participation in practice? As Party of origin, has your country organized public participation in affected Parties and, if so, how? What has been your country's experience of the effectiveness of public participation? Has your country experienced difficulties with the participation of its public or the public of another Party? (e.g. have there been complaints from the public about the procedure?);*

See the answers to questions 31, 32 and 47.

- f. *Describe any difficulties that your country has encountered during consultations, for example over timing, language and the need for additional information. As an affected Party, have consultations under article 5 supported the prevention, reduction or control of possible significant transboundary environmental impacts?;*

For the above pointed period we didn't have any difficulties.

- 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;*

See the answer to question 37. The Decision No15-8 from 14.12.2006 was announced by the MOEW web-page.

- h. *Has your country carried out post-project analyses and, if so, on what kinds of project?;*

See the answer to question 39. We do not have PPA experience.

- i. *Does your country have successful examples of organizing transboundary EIA procedures for joint cross-border projects? Please provide information on your country's experiences describing, for example, means of cooperation (e.g. contact points, joint bodies, bilateral agreements), institutional arrangements, and how practical matters are dealt with (e.g. translation, interpretation, transmission of documents, etc.);*

See the answer to question 47.

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

See the answer to question 47.

- k. *Identify the most common means of applying the Convention (e.g. through focal points, joint bodies, multilateral agreements).*

See the answer to question 6 (b).

All mentioned means are used in the cooperation of Bulgaria with its neighbours.

## CO-OPERATION BETWEEN PARTIES IN 2006–2009

54. *Does your country have any successful examples of how it has overcome difficulties arising from different legal systems in neighbouring countries?*

For the above pointed period we didn't have any difficulties.

## EXPERIENCE IN USING THE GUIDANCE IN 2006–2009

55. *Has your country used in practice the following guidance, adopted by the Meeting of the Parties and available online? Describe your country's experience with using these guidance documents and how they might be improved or supplemented:*

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

We didn't use it till now.

b. *Guidance on subregional cooperation;*

We use it partially.

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

We didn't use it during this period.

## CLARITY OF THE CONVENTION

56. *Has your country 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 one above 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 your country encounters when applying the Convention.*

We consider that the strengths in implementation of the Convention are that we have developed special articles in the Environmental Protection Act. We didn't have any difficulties implementing the procedure because we transposed the requirements of the Espoo Convention and the procedure was given in details in the EIA Ordinance in which we have specified a separate chapter "EIA Procedure in Transboundary Context". From other side Bulgaria as a member state of EU is applying the requirements of Article 7 of the EIA Directive.

See the answer to question 47.

## AWARENESS OF THE CONVENTION

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

The Convention is available in the web page of the MoEW (both in Bulgarian and English) and any information which is connected with the EIA procedure in transboundary context is also published in the web page.

From our experience to the moment NGOs are using this information very often.

58. *Does your country see a need to improve the application of the Convention in your country and, if so, how does it intend to do so? What relevant legal or administrative developments are proposed or ongoing?*

No need for improvements. See the answer of question 56.

SUGGESTED IMPROVEMENTS TO THE REPORT

*59. Please provide suggestions for how this report may be improved.*

To be simplified with avoiding the duplication of the questions.

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