

Questionnaire for the

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

in the period 2010–2012

Information on the focal point for the Convention

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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

1. *List the general legal, administrative and other measures taken in your country to implement the provisions of the Convention (art. 2, para. 2).*

The Convention became part of the Romanian environmental legislation by ratification according to the Law nr.22/2001.

This general legal framework is strengthened by the provisions of the Emergency Governance Ordinance (EGO) no.195/2005 on environmental protection as approved and amended by Law no.265/2006, later amended by EGO no.164/2008 currently under approval by law in Parliament.

In order to fully transpose the EIA Directives, the Romanian environmental authorities have issued the GD no.445/2009 (Of. J. no.481/13.07.2009) on environmental impact assessment for certain public and private projects establishing the framework procedure for the environmental impact assessment and approving the list of private or public projects to which the procedure must be applied, which contains transboundary provisions that transpose art.7 of the EIA Directives. The transboundary provisions are within art. 17 of the GD no.445/2009 which repeals the former normative act in this field.

For ensuring full implementation of the Convention, the Ministry of Environment and Water Management (former denomination of the central public environmental authority, currently called Ministry of Environment and Climate Changes -MECC) has issued the MO no.864/2002 for the approval of the impact assessment procedure and public participation to the decision making process for the projects with transboundary impact which fully observes the steps of the Convention.

The national legislation on EIA is additionally ensured by the following normative acts:

- Order of the Ministry of Environment and Forests, of the Ministry of Interior and Administration, of the Ministry of Regional Development and Tourism, of the Minister of Agriculture and Rural Development no.135/76/84/1284/2010 published in Of. J. no.274/27.04.2010, which repeals the former Order of the Minister of Waters and Environmental Protection no. 860/2002 (Of. J. no. 52/30.01.2003) on the approval of the procedure for the environmental impact assessment and the issuance of the environmental agreement, as amended by MO 210/2004 and MO 1037/2005;
- Order of the Minister of Waters and Environmental Protection no.863/2002 for the approval of the methodology guidelines to be applied to the procedure for environmental impact assessment (Of. J.no 52/30.01.2003);
- Order of the Minister of Environment and Forests no. 405/2010 on setting-up the technical review committee (TRC) at central level (Of. J. no 231/13.04.2010), as modified by MO 2104/2011 - this order contributed to the capacity - building for transboundary EIA

procedure. The TRC is responsible for carrying out the screening, scoping and review stages for big projects (the responsible authorities for these projects are the central ones). This order repeals the previous piece of legislation on this matter.

- Order of the Minister of Waters and Environmental Protection no.864/2002 for the EIA procedure in a transboundary context and for public participation to environmental decision making in case of projects with transboundary impact.
- Order of the Minister of Environment and Forests no.19/2010 for the approval of the Methodological Guidance on appropriate assessment of the effects of the plans and projects at Natura 2000 sites.
- The focal point for the Espoo Convention is established within the Ministry of Environment and Climate Change
- According to art.11, para 1, letter c) of the MO 135/76/84/1284/2010, the local environmental protection agency that established that a certain project is subject to the Espoo Convention will submit all the documentation received from the developer to the Ministry of Environment and Climate Change and it will follow the EIA procedure in a transboundary context. For all other projects for which the local environmental protection agency establishes that there is not likely to have a significant adverse transboundary impact the Ministry of Environment and Climate Change is only informed as such (about those projects).

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

3. List the different authorities that are named responsible for the implementation of the EIA procedure in the transboundary context and domestically.

The EIA procedure in a transboundary context is implemented by the Ministry of Environment and Climate Change. The domestically EIA procedure is implemented by the Ministry of Environment and Climate Change, NEPA (National Environmental Protection Agency) and the LEPAs (42 Local Environmental Protection Agencies) and Administration of the Danube Delta Biosphere Reserve.

4. Is there an authority in your country that collects information on all the transboundary EIA cases? If so, please name it.

The Ministry of Environment and Climate Change.

5. Does your country have special provisions for transboundary EIA procedures for joint cross-border projects (e.g., roads, pipelines)?

No. The Romanian legislation does not contain special provisions for joint cross-border projects. Even so, Romania has developed a joint EIA procedure with Bulgaria for the bridge over Danube at Calafat-Vidin. This joint procedure was based on the national and transboundary EIA legislation in force in Romania. The same procedure is applied for the navigation project on the common Romanian - Bulgarian sector of the Danube and for Nabucco gas pipeline project.

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

6. Is appendix I to the Convention transposed fully into your country's national legislation? Please describe any differences between the national list and appendix I to the Convention.

The Romanian transposing legislation of the EIA Directive (including the Directive 2003/35/EC) is GD no.445/2009 in which the annexes of the EIA Directives are transposed as well, without any modification. Annex 1 lists the activities that are mandatory subject to the national EIA procedure and it also includes the activities listed in Appendix I of the Espoo Convention, except deforestation of areas which are provided for by Annex 2 of the same GD no.445/2009.

By Law 22/2001 for ratification of the Espoo Convention the whole text of the Convention is part of national legislation, so Appendix I of the Convention is included without modification into national law.

7. *Does your country's legislation already cover fully the revised appendix I in the second amendment (ECE/MP.EIA/6, decision III/7)?*

Romania has not ratified the second amendment of the Convention but our legislation covers fully the EIA Directive, including annex 1 and annex 2 of the EIA Directive.

PUBLIC PARTICIPATION

8. *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 notification of the affected Party is done as soon as the Project Presentation Report is submitted to the Ministry of Environment and Climate Change (MECC). Based on this documentation the screening stage takes place. For our own public this documentation is available on the web site of the environmental authority for the whole period of the procedure. This documentation is also sent together with the notification to the affected Party and is published on the web site of the affected Party. Both the Project Presentation Report and then the EIA documentation are displayed on the website of the MECC and are transmitted to the potentially affected Parties in electronic format with the request to be displayed on the website of the competent environmental authority in order to ensure an appropriate dissemination to the public. The EIA documentation is also sent to the potentially affected Parties in written format (on paper) so that the possibly affected public be able to consult it. The non- technical summary of the EIA documentation is translated, when possible, in the language of the affected public. The whole documentation is usually translated in English.

The documentation is made available to the public of the affected Party according to their national legislation and Romania makes flexible time arrangements with the affected Party to receive comments of the authorities and public that will be taken into consideration into the transboundary procedure.

In addition, at the request of the potentially affected Parties, the developer together with the Romanian environmental authorities participate to the public debate (hearing) on the territory of likely affected states.

Article 3

Notification

QUESTIONS TO PARTY OF ORIGIN

9. *Describe how your country determines when to send the notification to the affected Party, which is to occur "as early as possible as and no later than when informing its own public".*

The notification to the potentially affected Party is sent early in the EIA procedure, after the developer has submitted to the competent environmental authority the application for the environmental agreement and the technical memorandum (Project Presentation Report) of the

project. Based on the project presentation report, the notification form is filled in with the required information and then is sent by diplomatic channels. Meantime, the national public is informed by public announcements in the national/local newspapers about the submission of the application for the environmental agreement for the project. That means that the notification form is sent in the same period with the information of our own public by public announcement.

10. *Indicate whether and how the following provisions are reflected in your national legislation:*

a. *The stage in the EIA procedure when your country usually notifies the affected Party (art. 3.1);*

Law no 22/2001 for ratification of the Espoo Convention ensures the existence of such provision in national legislation. GD 445/2009, art.17 para 1 requires the notification to take place as early as possible.

For the implementation of this provision there is art.9 of the MO 864/2002 which stipulates that the notification of the affected Party is done no later than when informing our own public about the project. Based on project presentation report, the notification form is filled in with the required information and then is sent to the affected Party.

b. *The format for notification. Please indicate whether this is the format as decided by the first meeting of the Parties in its decision I/4 (ECE /MP.EIA/2, annex IV, appendix). If not, does your country use a format of its own (in which case, please attach a copy of it)?*

Romania uses the format for notification decided by the first MOP in Decision I/4, as a consequence of being a Party to the Espoo Convention; Decision I/4 is not required by national legislation, but nevertheless we prefer to use the format indicated by Decision I/4; notification by letter is compulsory required by national legislation.

c. *The time frame for the response to the notification from the affected Party (cf. art. 3, para. 3, “within the time specified in the notification”), the consequence if an affected Party does not comply with the time frame, and the possibility of extending a deadline;*

Usually the deadline for response to the notification is 4 weeks since the notification is received by the affected Party. Romania usually agrees with the extend of the deadline if required. If an affected Party does not comply with a time frame, the Romanian focal point of the Convention get in contact with the focal point of the concerned Party in order to solve the question. The deadline of 4 weeks is provided for in the MO 864/2002, art.10, para.1, letter g).

d. *The request for information from the affected Party (art. 3 para. 6), necessary for the preparation of the EIA documentation;*

Art.11, para. 4 of the MO 864/2002 stipulates that the central environmental authority of the Party of origin may request to the affected Party to furnish the reasonable obtainable information on the state of the environment that is likely to be affected by the proposed activity, such information being necessary for the elaboration of the EIA documentation.

e. *How your country cooperates with the authorities of the affected Party on public participation (art. 3, para. 8);*

Art.12, art.13, art.15 and art.16 of the MO 864/2002 ensure the implementation of art.3, para.8 of the Espoo Convention. For example, Art.13 provides for the participation of the affected Party to the scoping stage of the EIA procedure.

In practice, the cooperation with the authorities of the affected Party is realized as follows:

The affected Party identifies its own public potentially affected. The affected Party may indicate, by letters, that a public hearing is also needed for its own public; Romania makes available the information about the project, the EIA documentation, the measures envisaged to be taken in order to mitigate or offset the impact and provides answers the public questions, both orally and in written format. The availability to its own public of the documentation transmitted by Romania as a Party of origin is made by the environmental authorities of the affected Party according to national legislation. Comments are received and centralized by the central environmental authorities in affected party and sent to Romania.

Usually, the announcements on the procedural steps are displayed on the MECC website both in Romanian and in English.

The authorities of the affected Party are requested to inform its own public about the EIA documentation. In this respect, Romania usually sends the EIA documentation both in electronic and written format. Lately Romania has used only the electronic format of the documentation, saving financial costs of the procedure.

The public of the affected party is notified at the end of the screening stage and later is informed and is provided with the opportunities for making comments or objections on the project and on the EIA documentation with the help of the competent environmental authority of the affected Party. The environmental authority of the affected Party has been cooperative and also interested in making arrangements in order to enable its own public to make comments within the transboundary EIA procedure applied by Romania (e.g., Bulgaria, Hungary).

- f. *When and 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 of the affected Party is notified according to the national legislation of the affected Party, by the environmental authorities of the affected Party, based on the notification received from the Party of origin. When Romania is an affected Party, the notification received is posted as such on the web page of MECC (the format according to Decision I/4).

Art.17 para 1, letters a) and b) of the GD 445/2009 provide for the minimum content of the notification.

The content of a normal notification is provided by art.10 of the MO 864/2002: letter of notification, deadline for response, copy of the application, technical documentation/presentation of the project which contains a description of the project and of the likely impact on the environment, other information on the possible decision that is going to be taken.

- g. *When and how the public in the Party of origin is notified (what kinds of media, etc. are usually used). What is normally the content of the public notification?*

GD 445/2009, art.15, para 2 provides for the obligation of the environmental authorities to inform the public, by public announcements or by posting on the web page, the following information:

- any application for the environmental agreement, if the project is subject to a domestically EIA procedure and if appropriate to a transboundary EIA procedure, contact data of the authorities entitled to receive comments from the public and to provide information on the impact, the deadline for comments. If the EIA

documentation is available, the content of the public announcement provides information about date, place of the public hearing, contact data of the authorities holding the EIA documentation as well as the web page where the EIA documentation is posted.

When Romania is a Party of origin, according to the MO 135/2010, art.11, para1, letter f) the competent environmental authority publishes on the web page and at its own headquarters a public announcement as required by annex 7 of the mentioned order. The developer is responsible to publish an announcement in newspaper, as required by letter g) of the same article 11 and by annex 8 of the ministerial order mentioned above.

- h. 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.*

As notification to the affected Party we send the Notification form issued by Decision I/4 and the Project Presentation Report (Technical memoire of the project). For our own public, we notify according to the requirements of the EIA Directive as transposed by GD 445/2009, art. 15, para 2, as mentioned above. It is important to mention that the public announcement informs about the application being submitted and that the information available (project presentation report) may be consulted at the headquarters of the environmental competent authority and at the developer's, during working hours, contact data of the authorities and the developers are indicated. The projects presentation report is also made available on the web site of the environmental authority.

- 11. 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, annex III, decision I/3), and as listed on the Convention website (http://www.unece.org/env/eia/points_of_contact.htm)?*

We send notifications accompanied by letters signed at minister level, by post, and a copy is scanned and sent by e-mail to the focal point or to the contact point.

QUESTIONS TO AFFECTED PARTY

- 12. Indicate whether and how the following provisions are reflected in your national legislation:*

- a. How your country decides whether or not to participate in the EIA procedure (art. 3, para. 3)?*

The provisions of the Convention are detailed by the Ministerial Order no.864/2002 (MO 864/2002): art.11, art.12 of the order stipulates how the central environmental authority is informing its own public as soon as it has received the notification giving the possibility for the public to make comments and objections to the project. In practice, based on the comments of the public and of the authorities (LEPAs, Water management authorities, Health authorities at central and/or local level) the decision to participate in the EIA transboundary procedure is taken by the Ministry of Environment and Climate Change (the central public environmental authority).

- b. The request from the Party of origin for information (art. 3, para. 6), necessary for the preparation of the EIA documentation;*

This provision is provided for by art.12 para 4 of the MO 864/2002, if this kind of information has not been provided within notification form.

c. *How your country cooperates with the authorities of the Party of origin on public participation (art. 3, para. 8);*

There are such provisions within art.12, art.13, art.16 of the MO 864/2002.

In practice, the focal point of Romania establishes with the focal point of the party of origin arrangements for public hearing on the EIA documentation and on the project, if, after notification, it is decided to participate in the transboundary EIA procedure.

d. *When and how the public is notified (e.g., what kinds of media, etc., are usually used).*

The public is notified by newspaper and on web site of the local and central environmental authority. The MO 864/2012 provides in art.9 and art.10 the responsibility of the central environmental authority to inform the concerned public about the notification received.

Article 4

Preparation of the environmental impact assessment documentation

QUESTIONS TO PARTY OF ORIGIN

13. *Indicate the legal requirements in your country, if any, related to:*

a. *The content of the EIA documentation (art. 4, para. 1; appendix II);*

Law no.22/2001 has ratified the Espoo Convention in Romania. From that date the text of the Convention has become part of the national legislation and consequently, its requirements are compulsory.

Annex 4 of GD no.445/2009 transposes the content of the Annex 4 of the EIA Directive and is compulsory. Art.11 and 13 of the mentioned Governmental decision provides for the content of the EIA report(EIA documentation).

In order to smooth the implementation of these requirements, the Central public environmental authority has issued the MO 864/2002 for the approval of the impact assessment procedure and public participation to the decision making process for the projects with transboundary impact. The MO 864/2002 has provisions on the minimum content of the transboundary EIA documentation by reference to Appendix II of the Espoo Convention, as ratified by Law no.22/2001.

The MO 864/3002 is meant to implement also the transboundary requirements of the EIA Directives which have been transposed by the GD no.445/2009.

We mention as well the MO 863/2002 which contains the recommended structure of the EIA documentation, a normative act which may be consulted by developers seeking advice on how the EIA documentation must be.

b. *The procedures for determining the content of the EIA documentation on a case-by-case basis (scoping procedure) (art. 4, para. 1);*

The scoping procedure is mandatory in Romanian legislation. Scoping, when applying the EIA legislation domestically, is regulated by GD 445/2009, art.12, para 1 and Annex 4 and by the MO135/76/84/1284/2010, art.14 and 15.

MO 863/2002 requests that the competent environmental authorities together with the TRC (Technical Review Commission) must fill in the checking list for the scoping stage, must request opinions from other concerned authorities represented within the TRC and must elaborate a guidance which is then forwarded to the developer. So, during the scoping stage are identified or emphasised certain/specific requirements that have to be included in the EIA documentation.

The developer is required to draw up the EIA documentation according to the provisions of the guidance. When applying the transboundary EIA procedure, the scoping stage is regulated by the MO 864/2002, art.12 and 13. During the transboundary scoping stage the affected Party is required to participate indicating certain aspects to be included in the EIA documentation, usually within a time limit of 4 weeks.

c. The identification of “reasonable alternatives” in accordance with appendix II, paragraph (b);

The obligation of identification of reasonable alternatives is provided for by Law no22/2001 for ratification of the Espoo Convention; The same obligation is provided, as well, by Annex 4 of the GD no445/2009, and by the MO 863/2002.

The identification of the "reasonable alternatives" is realized by the certified expert who draws up the EIA documentation, based on the provisions stipulated in Part I of Annex 2 of the Metodological guideline for the scoping stage approved by MO 863/2002. The reasonable alternatives must respond to the requirements of the Habitats Directive, in case the project may have an effect on a Natura 2000 site.

The reasonable alternatives are not accepted by the environmental authorities if the public reveals justified motives or other reasons are provided for by other concerned authorities or are known by the environmental point of view.

d. The procedures and format for providing the EIA documentation domestically;

The procedures and format for providing the EIA documentation domestically are stipulated within the GD 445/2009, which transposed entirely the EIA Directive. Annex 4 of the GD 445/2009 is the format. The MO 135/76/84/1284/2010 provides the procedure of the environmental impact assessment for public and private projects and requires the members of the Technical Review Commission (TRC) to fill in the scoping check-list provided by MO 863/2002 and also requires that the format of the EIA documentation must observe the Annex 4 of the GD 445/2009 which transposes Annex 4 of the EIA Directive.

MO 863/2002 furnish the 3 check -lists for the 3 stages of the EIA procedure as provided by the European Commission guidelines and explains the methodology to be followed within the EIA procedure.

e. The procedures and format for providing the EIA documentation to the affected Party. If there is a difference between the procedures and format domestically and for the affected Party, please explain;

The format for the transboundary EIA documentation is furnished by Appendix II of the Espoo Convention to which art.15, para 3 of the MO 864/2002 makes reference. This article provides for the minimum content of the transboundary EIA documentation as being compulsory within the procedure. Art.11 para 4 of the same order enables the Party of origin to request information on the potentially affected zones of another neighbouring state, while art.13 provides for the information and the public comments received from the affected country to be made part of the scoping document/guidelines elaborated by the environmental authority in charge with the domestic procedure.

- f. The procedures for the examination of, and the deadlines for comments on, the EIA documentation domestically, and how the comments submitted domestically are addressed;*

The procedures for the examination of the EIA documentation, domestically, are provided for by the MO 135/76/84/1284/2010. This ministerial order integrates the requirements of the EIA Directives with the requirements of the Habitats Directive. This means that for a project which is likely to have an impact on a Natura 2000 site, an appropriate assessment is done and then the conclusions, measures and recommendations resulted from the appropriate assessment are included in the environmental impact assessment procedure and the EIA report. Art.16 of the mentioned ministerial order stipulates that the EIA report develops the conclusions of the appropriate assessment which has been undertaken according to the methodology approved by the MO 19/2010. So, the EIA report must contain the mitigation measures or the alternative solution or the compensation measures resulted from the appropriate assessment undertaken according to the Habitats Directive. The same article requires that such studies are undertaken by natural or legal persons registered according to the national legislation in force.

Art.17 indicates that within 5 day since it received the EIA report, the competent environmental authority must make it available for the public and for the members of the TRC on the web page and must establish with the developer the public hearing date. Para 2 of art.17 stipulates that the public announcement of the public hearing must be made on Internet and posted at the headquarters with at least 20 days before the established date for the hearing. Para 3 of art.17 obliges the developer to publish the announcement for the public hearing in national or local newspaper, on its own web page and also at its headquarters.

After the public hearing took place, within a deadline of another 20 days, according to art.22, the competent environmental authority must analyse the comments received from the public, and asks the developer to formulate written answers within the provided format/table required by the ministerial order. Further, art.23 provides that within 10 days since it received the answers from the developer, the competent environmental authority calls together the TRC members in order to analyze how the comments were addressed and to discuss the quality of the EIA report, to fill in the checklist for this stage of the EIA procedure and to establish if the EIA report is of a sufficient quality or must be improved. If the results of the TRC meeting write down that the EIA report/documentation meets all requirements and answers to all questions, addresses also the public concerns, then the EIA final decision can be issued and in another 15 days this decision is brought to the knowledge of the developer. The final EIA decision integrates the results of quality review stage of the EIA documentation, the TRC members' recommendations and the justified opinion of the concerned public, according to art.25, para 2 of MO 135/76/84/1284/2010.

- g. The procedures for the examination of, and the deadlines for comments on, the EIA documentation from the affected Party, and how the comments submitted by the affected Party are addressed;*

The provisions required by this item of the implementation questionnaire are provided for by the OM 864/2002.

Art. 15 para 1 stipulates that after receipt of the EIA report from the developer the central public authority for environmental protection shall transmit it to the affected Party, together with the non technical summary, both translated into English by concern and on expense of the project developer. The deadline for response is no longer than 8 weeks.

Further on, para 2 stipulates that the documentation received from the Origin Party shall be distributed to the authorities and the public in the areas likely to be affected, by concern of

the competent authority of the affected Party, which shall transmit the comments and objections received from the public and the authorities, to the Party of origin.

Art. 16 para 2 stipulates that in a deadline of 8 weeks, the central public authority for environmental protection shall participate, together with the developer, to the public hearing of the report organised within the affected Party, on the basis of the provisions of the bilateral agreements or the discussions previously carried out.

Further, para 3 stipulates that based on the results of the public debates mentioned in para 2, as well as on the comments of the authorities of the affected Party, the developer shall prepare an evaluation thereof, with solutions for settling the raised issues, which he shall submit to the competent authority for environmental protection, according to the legal provisions in force.

After receipt of the evaluation provided in para 3 from the developer, the competent authority for environmental protection shall carry on with the review stage of the quality of the environmental impact assessment report, according to the legislation in force (shall carry on the EIA procedure domestically).

On the other hand, according to art.17 that implements art.5 of the Espoo Convention, the central public authority for environmental protection shall initiate consultations with the competent authority of the affected Party regarding the measures to reduce or eliminate the potential transboundary impact of the proposed activity (these measures are part of the EIA report). These consultations are integrated within the EIA report review stage undertaken domestically. The consultations shall consider:

- (a) possible alternatives to the proposed activity, including the 'zero' alternative of not carrying out the project and possible measures to mitigate the significant adverse transboundary impact and/or to monitor the effects of such certain measures;
- (b) other forms of possible mutual assistance in reducing any significant adverse transboundary impact of the proposed activity; and
- (c) any other appropriate matters relating to the proposed activity.

Para 2 of art.17 provides for the duration of the consultations which can be no longer than 8 weeks, unless the bilateral agreements or the discussions carried out previously provide otherwise.

Art. 18 stipulate that both the result of the environmental impact assessment, presented in the EIA report and the comments received relating to this, according to the provisions of Art. 15 and Art. 16 and the results of the consultations referred to in Art. 17 shall be considered in making the final decision regarding the project. In practice, in the EIA final decision there are mentioned the conditions and measures taken as a result of the consultations under art.5 of the Convention, those resulted from the transboundary public hearing, as well as those resulted from the domestically EIA procedure. Art.19 stipulates that the final decision of the Party of origin is sent to the affected Party as soon as possible together with its grounds, reasons and consideration upon which it is based and the main measures to avoid, reduce and if possible, offset the major adverse effects.

h. The procedures for public hearings domestically;

The procedures for the public hearings domestically are regulated within the MO135/76/84/1284/2010.

According to art17, para (3) the developer is obliged to publish the announcement on the organization of a public hearing with at least 20 days prior of the established date of the hearing.

Within a deadline of 3 days since he received the format of the public announcement from the environmental authority the developer is obliged to publish it in a local newspaper, to post it at its own headquarters and on his web page.

According to art.18 para 1 the concerned public can send comments and proposals on the EIA report until the date established for the public hearing. According to para 2 of the same article, when submitting the comments, the public is obliged to indicate name and address.

Art.19 stipulates that the developer organizes the public hearing under the indications received from the competent environmental authority, the costs being beared by the developer. The development of the public hearing is recorded and the questions raised by the public as well as the ansewers given by the developer or the competent authority are written down in a minute.

Art 20 provides for the moderator of the public hearing as being the competent environmental authority and also for a deadline of 60 minutes within which members of the public come and the competent environmental authority is obliged to wait before closing because absence of the public.

Art.21 provides for the development of the public hearing, namely: the developer makes presentation of the project and of the EIA report and answers to the questions of the public. The comments and opinioms expressed during the public hearing are then introduced by the competent environmental authority within a special format/table together with the comments received prior of the public hearing.

Art.22 furnished a deadline of 20 days since the public hearing has taken place during which the competent environmental authority makes an analysis of the received comments and transmits to the developer the format/table with the received comments and proposals from the public. The devloper is obliged to respond to the questions and the format/table will be annexed to the EIA report.

According to art. 23, para 1, within a deadline of 10 days since the developer submitted the answers in the requested format, the competent environmental authority transmits the same format to all TRC members to be analized, records the views of the TRC members on the received answers, analysis the quality of the EIA report and decides if the EIA decision is going to be issued or not.

i. The procedures for public hearings held on the territory of the affected Party.

The procedures for public hearings held on the territory of the affected Party are undertaken by the affected Party according to their national legislation.

MO 864/2002 provides in art.16 para 2, the obligation of the central public environmental authority to accompany the developer and the EIA expert team who elaborated the EIA report to the public hearing held on the affected state territory.

In practice all arrangements as venue, microphones, and information of the public are made by the affected state; all the necessary arrangements are made through the focal points of the Party of origin and of the affected Party. The state of origin comes and makes the presentation about he project and the EIA Report and answers to the questions. After the public hearing is ended the state of origin makes written answers as well, to all comments and opinions expressed by the authorities and the public of the affected state and sends this document to the affected state. The affected state responds in writing about the completeness of the furnished answers.

QUESTIONS TO AFFECTED PARTY

14. Indicate the legal requirements in your country, if any, related to:

a. The procedures and deadlines for comments on the EIA documentation to be submitted to the Party of origin;

Law no22/2001 for ratification of the Espoo Convention ensures, as already said, the integration of the Convention into national legal system; in order to implement the Convention, the central public environmental authority has issued in 2002 the ministerial order 864/2002 (MO 864/2002).

Art.15 para 2 of this ministerial order requests that Romania as affected Party will disseminate the documentation received from the Party of origin to the authorities and the public in the likely affected areas of Romanian territory. The Comments and opinions received are sent back by the

Competent authority which is the Ministry of Environment and Climate Change.

The deadlines for comments are indicated by the Party of origin. Sometimes we ask for extension of the deadlines if the authorities or public require this.

Comments on the EIA documentation are received both from the Romanian authorities and the public.

In practice the EIA documentation is sent to all concerned Romanian authorities which are asked to issue a standing opinion in a deadline of 2 weeks. Within certain departments of the ministry, such as Waste Directorate, Pollution Control Directorate, Biodiversity, Climate Change, Water Directorates and Danube Basin Directorates the EIA documentation is analyzed as well and a standing opinion is required during the same deadline. If needed, the TRC is called for and the EIA documentation is discussed and a final opinion is agreed upon within this commission. The comments expressed are compiled by the ministry in order to be sent to the party of origin.

Romania as affected country is expecting to receive from the Party of origin, request to enter into consultation on the potential transboundary impact, as provided for by art.5 of the Espoo Convention. If this request is not made in due time, Romania asks for such consultations because they are needed in order to decide on the quality of the EIA documentation and the proposed mitigation measures. The duration of these consultations are agreed with the Party of origin.

Romania as affected Party finally transmits to the party of origin a document which represents the stand point on the EIA documentation, based on all points of view of the ministry departments and other central and local authorities concerned by the likely effects of the project of the Party of origin.

b. The procedures for public participation in the review of the EIA documentation domestically, and the authority responsible for the execution of the aforementioned procedures;

Romania, as an affected Party acts according to the requirements of the MO 864/2002. The competent authority responsible for the transboundary procedure (as an affected party as well as a Party of origin) is the central public environmental authority (Ministry of Environment and Climate Change), according to art.2. This article stipulates that the Romanian central public authority for environmental protection will cooperate with the competent authority of other concerned state in order to implement the provisions of the Espoo Convention.

As an affected state, the procedures for public participation in the review of the EIA documentation begin at the notification stage. As soon as Romania has received notification from another state, this is made available for the Romanian public on the web page of the ministry together with the received documentation if any (it may be a preliminary EIA report or a Project Presentation Report or the non technical summary). Such documentations are sometimes translated in Romanian, sometimes not and in this case Romania assumes the

translation as well. One month is the deadline for the public to make comments on the notification stage. Usually this documentation is also made available on the web page of the LEPA situated in the Romanian territory likely to be affected by another state project. LEPA is also in charge with public announcements on the project in the local newspapers.

When receiving a scoping document from the Party of origin it is also published on the web page of both central and local environmental authorities and comments and opinions are collected within the deadline specified by the requirement of the Party of origin.

The EIA report is made available for the public as well, and if it is not translated the Ministry of Environment and Climate Change provides for the translation at least of the transboundary impact chapter and asks the public to submit comments and opinions within 1 month, trying to keep up with the deadline requested by the Party of origin. We also request to the Party of origin to come in Romania and present the project and its likely impact during a public hearing.

The public may consult the EIA documentation and may participate in the public hearing which is compulsory organized for the proposed activity.

We organize the public hearing and provide for the venue, translation and other facilities according to the requirements for public hearings, domestically (MO 135/76/84/1284/2010, art.17, art.18-21). The developer responds to questions during the public hearing. The central environmental authority draws up a minute of the public hearing, which is also assumed by the representative of the Party of origin. At the end of the consultation period, Romania, as affected Party, sends to the Party of origin, in written format all collected concerns of the public and expects answers as well, in written format.

c. The procedures for the examination of the EIA documentation domestically.

The legal requirements regarding the examination of the EIA documentation, domestically, for a project under national EIA procedure (for a project proposed by Romania) are provided by the MO 135/76/84/1284/2010, art.17 para 1, art.18, art.19-25. These provisions do not indicate specifically to be followed as an affected Party.

In summary, the ministerial order provides for:

The EIA procedure is carried out by environmental authorities with the consultation of other authorities within the Technical Review Committee.

The EIA procedure is triggered by the developer submitting the application for environmental agreement for all projects listed in Annex 1 and Annex 2 of GD no.445/2009. All authorities represented in TRC are obliged to examine the EIA documentation as soon as it is submitted and they have to give opinions and comments and ask for improvement of the documentation if it is necessary.

The EIA documentation is based on the check list for the scoping stage, taking into consideration the framework content of the EIA documentation as provided for by Annex 4 of GD 445/2009 . The EIA documentation is drawn up by certified persons, independent of the developer.

After the submission of the EIA documentation by the developer to the environmental authorities, a public hearing is organized. The EIA documentation is made available for public consultation for at least 20 days before the public hearing meeting.

The competent environmental authority leads the public hearing. All comments made during the public hearing are recorded. The evaluation of these comments is the responsibility of the-competent environmental authority. After that, the developer is asked to answer to the public comments in a table format which is attached to the EIA documentation.

The review stage decision (issuing/rejecting the environmental agreement) is taken by the competent environmental authority, based on the opinion expressed by the authorities within TRC after analyzing the EIA documentation, and on the affected public opinions/comments, including on the public of the affected country, and the answers to them offered by the

developer. The decision is made public for information. The decision can be challenged before the competent court of law.

As an affected Party, the examination of the EIA documentation received from a Party of origin is already described under letter *a) The procedures and deadlines for comments on the EIA documentation to be submitted to the Party of origin;*

Article 5

Consultations

QUESTIONS TO PARTY OF ORIGIN

15. *Indicate the legal requirements in your country, if any, related to the following provisions:*

a. The procedures for cooperation with the affected Party related to consultations;

Art.17 of the MO 864/2002 imposes the obligation of Romania, as a Party of origin, through the Ministry of Environment/Central environmental public authority to start consultations with the same authority of the affected Party, as soon as the affected Party receives the EIA documentation. When having consultations we follow also the recommendations of the Guidance on the Practical application of the Espoo Convention. In our understanding art.5 of the Convention refers to consultations between the authorities of both Parties – origin and affected- based on the EIA documentation and does not involve the scoping stage.

Otherwise, as mentioned above under other articles/questions, in Romania there are also legal requirements for involving the affected Party in scoping (art.12 and art.13 of the MO 864/2002) and the obligation to participate in the public hearing organized by the affected Party for the project of the Party of origin within a deadline of 8 weeks since the EIA documentation is received (art.16 of MO 864/2002)

b. The stages, procedures and deadlines for consultations with the affected Party;

The same article 17, para.2 of the MO 864/2002 provides for a deadline of 8 weeks for the duration of whole period of consultations. The deadline includes, if requested by the affected Party, the possibility to make a site visit (e.g., Austria visited the site of the NPP at Cernavoda in Romania) or the possibility to forward, at the request of the affected party other studies made by the developer and not included in the EIA documentation, or written answers to the questions raised during consultations.

c. The stages, procedures and deadlines for consultations domestically, and who participates in the consultations.

The national EIA procedure is regulated as mentioned above by GD no445/2009 and implemented by MO 135/76/84/1284/2010. Under the ministerial order, art.11, para 1, letter i) provides for consultations with national authorities concerned by the implementation of the project (Technical Review Commission –TRC-) within the screening stage, art.14, para 1, letter d) refers to consultations with authorities within the scoping stage and art.23, para.1, letter b) refers to consultations with authorities within the quality analysis stage of the EIA documentation.

So, the consultations with the concerned authorities are held within TRC. TRC includes representatives of: Ministry of Environment and Climate Changes, Ministry of Regional Development, Tourism, Ministry of Health, Ministry of Agriculture and Rural Development, Ministry of Economy, Ministry of Culture, Ministry of Transport, Ministry of Public Administration, Ministry of Interior, Inspectorate for Emergency Situations, Ministry

of Finance. At local level TRC is composed of the same institutions represented at local level.

QUESTIONS TO AFFECTED PARTY

16. *Indicate the legal requirements in your country, if any, related to the following provisions:*

a. *The procedures for interaction with the Party of origin related to consultations;*

Art.17 para 5 of the GD 445/2009 requires that the central public authority for environmental protection must initiate consultations with the environmental authorities of the other states on the possible transboundary effects and on mitigation measures, in reasonable timeframe.

Art.8 para 2 of the MO 864/2002 enables Romania, as an affected Party to start consultations/discussions if an activity not listed in appendix I may cause significant adverse impact on the Romanian territory.

Art.9 para 3 of the MO 864/2002 requires that the information received from the Party of origin be furnished to the concerned public. This is usually done by the Ministry of Environment and Climate Change with the help of LEPA's by means of Internet pages, by posting it at the headquarters, or by public announcements in central or local newspapers.

b. *The stages, procedures and deadlines for consultations domestically, and who participates in the consultations.*

In our understanding consultations under art.5 of the Convention mean consultations between the authorities of the Party of origin and those of the affected Party.

Romania, as an affected party acts in this case, domestically, according to the existing legislation in force.

GD 445/2009 has been modified by GD 17/2012, art.17, by which the information is made available to the concerned authorities members of the TRC; further the activity of the TRC is regulated according to the MO 135/76/84/1284/2010, including procedure and deadlines according to these requirements.

In practice the concerned authorities must analyze the documentation in 2 weeks, and must elaborate a standpoint. Based on these, the central public environmental authority elaborates an integrated and final point of view that is transmitted, on behalf of Romania as an affected state, to the state of origin. The consultations with the party of origin are agreed at central level, through letters of correspondence and e-mail between focal points of both Parties, the duration of the consultation is agreed within the minutes of the meeting. Usually, the consultation takes place 1 day, the minutes of the consultation comprise all matters discussed, the requests, the answers and the conclusions of the consultation as well as if the consultations can be considered closed or not and if not when they can be closed.

The Ministry of Environment and Climate Change is in charge at central level with the leading procedure for the transboundary consultations, invites the other central and local authorities to express points of view within the TRC meeting.

The TRC meeting is organized as requested by the MO 405/2010, as modified by MO 2104/2011.

Article 6

Final decision

QUESTIONS TO PARTY OF ORIGIN

17. *Indicate the legal requirements in your country, if any, related to the following provisions:*

- a. *The definition of "final decision" related to the implementation of the planned activity; the content of decisions; and procedures for their adoption;*

The Espoo Convention does not provide for the definition of the “final decision”, the national legal requirements for the implementation of the Convention either. The EIA Directive provides for the definition of the “development consent” and subsequently the transposition legislation has incorporated this definition. The development consent definition is furnished within the GD 445/2009, art.2, letter b). For most activities listed in annexes 1 and 2 of the EIA Directive, the development consent is represented by the construction authorization. The procedure for obtaining the construction authorization is provided by *Law 50/1991 authorizing the execution of construction works, with subsequent amendments and completions.*

- b. *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, para. 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 GD 445/2009 identifies the development consent for every activity listed in annexes 1 and 2 of the EIA Directives.

Activities listed in Appendix I, under item 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12,13,14,16 – the final decision is the construction authorization; In Romanian it is called “*autorizatie de construire*”.

For item 15, by EGO no.85/2011 which modifies art.3 para 1, letter e) of the Law 50/1991, as amended, it is repealed the requirement of having a construction authorization for underwater works.

Activities listed under item 17 – the final decision is represented by the order of the central public authority for forests (for a surface less than 10 ha), or Governmental decision (for a surface greater than 1 ha).

We mention that in Romania the EIA procedure is finalized by issuing an administrative act called “*environmental agreement*”; this administrative act is attached to the development consent and is part of the development consent. The fact that the environmental agreement is part of the construction authorization is provided for by Law 50/1991 with its subsequent amendments.

In the same time the environmental agreement is considered final decision for the EIA procedure.

- c. *The procedures for informing of the "final decision" domestically and for the affected Party;*

Art.21 para 2 of the GD 445/2009 provide for the information of the affected Party about the final decision. Para 3 requires that the competent authorities must its own public about the final decision received from the state of origin.

Art.19, para 1 of the MO 864/2002 provides for the transmittance of the final decision to the competent authority of the affected Party, including any conditions attached to the decision, reasons and considerations, measures for mitigation the significant adverse impact. Usually, Romania translates the final decision in English before transmitting it to the affected Party.

- d. *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, para. 1)?*

Art.18 of the GD 445/2009 requires that the results of the consultations and the information obtained during the procedure are taken into consideration in issuing the environmental agreement and the development consent.

According to the MO 864/2002, the comments of the affected Party and the outcome of the consultation are taken into consideration in the decision-making process as follows: the comments and opinions are taken into consideration starting with the scoping stage; these are detailed, analysed and answered within the EIA documentation. The final EIA decision takes into consideration the comments and opinions of the affected Party in the same way as the comments from national public and authorities. Certain requirements of the affected Party are included in the EIA final decision if they are not resolved in the EIA documentation, after the evaluation of all received comments.

- e. The opportunity to review the decision if, before the activity is implemented, additional information becomes available according to article 6, paragraph 3.*

Art.20 of the MO 864/2002 provides for such an opportunity. In practice, the affected Party will be informed by a letter accompanied by the relevant information. After that, it will be decided, as appropriate, on the possible consultation in order to establish whether the decision must be revised.

Article 7

Post-Project Analysis

18. Indicate the legal requirements in your country, if any, related to:

- a. Post-project analysis (art. 7, para. 1);*

Art.21 and art.22 of the MO 864/2002 represent the legal requirements for the implementation of art.7 para 1 of the Espoo Convention.

- b. Procedures for informing of the results of post-project analysis.*

Art.21 of the MO 864/2002 stipulates that the results of the post project monitoring are sent in writing, by the central environmental authority, to the competent authority of the affected party. The post project analysis is undertaken at the request of the affected party.

Art.22 gives right to a party to inform the other party if the post project analysis reveals a significant impact not previously foreseen.

No procedures have been developed by ministerial order.

In practice, the affected Party is informed as soon as possible by the environmental authorities by a letter and it is consulted on the necessary measures to reduce or eliminate the impact. If parties agree on the necessity of a meeting for discussing the new aspects on impact, then the arrangements are made for such a meeting to be held.

Article 8

Bilateral and multilateral agreements

19. 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.

Romania is the depositary of the *Multilateral Agreement for the South Eastern European States for the implementation of the Convention on Impact Assessment in a Transboundary Context*. Romania has ratified this agreement by Law no.242/2011.

This multilateral agreement was signed in 2008 during the fourth meeting of the Parties to the Espoo Convention, which took place from 19 to 21 May 2008 in Bucharest. This Agreement has been ratified until now by Bulgaria and Montenegro. The seven South-Eastern Europe signatory countries are: Bulgaria, Croatia, Greece, Montenegro, Romania, Serbia and The former Yugoslav Republic of Macedonia. The Agreement includes detailed provisions for consultations between the South-East European countries both sides of a border concerning all projects listed in Appendix I of the Convention that might have an adverse transboundary environmental impact. The Agreement details appropriate means for providing information to authorities and the public, as well as opportunities to comment for both the countries and the public affected by the transboundary impact. Here there are some provisions of this Agreement: the joint proposed activities will be managed by joint bodies, the content of the notification is indicated in an annex to the Agreement, the language of notification is indicated as well (English), while the following documentation shall be translated into the official language of the affected Party:

- (a) The description of the proposed activity and its purpose;
- (b) The non-technical summary;
- (c) The description of the potential transboundary environmental impact of the proposed activity and its alternatives and an estimation of its significance;
- (d) The description of mitigation measures to keep adverse transboundary environmental impact to a minimum.

The text of this Agreement is available on Espoo Convention web page, within the document ECE/MP.EIA/ 2008/8.

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

No supplementary points of contact have been established.

Article 9

Research programmes

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

Generally research studies are done based on monitoring data within national research institutes for assessment of impacts in the Danube Delta.

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

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

Romania has accepted the first amendment of the Espoo Convention by Law no. 293/2006. The law was published in the Of. J. of Romania no. 645/2006.

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

Romania has not ratified the second amendment of the convention; no precise date is foreseen.

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

Romania has ratified the SEA Protocol by Law no.349/2009, published in Of. J.of Romania no. 787/2009.

PART TWO – PRACTICAL APPLICATION DURING THE PERIOD 2010–2012

Please report on your country's practical experiences in 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; and 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 2010–2012

25. *If your country's national administration has a list of transboundary EIA procedures that were under way during the reporting period, in which your country was Party of origin or affected Party, please list it.*

Romania as Party of origin:

- a) Project "Continuing the construction and completion of units U3 and U4 at Cernavoda NPP, developer is SNN S.A., stage: final EIA decision.
- b) Project "Construction works for a heavy water detritiation plant at Cernavoda NPP" developer is SNN - CNE Cernavoda, stage: preparation of the project presentation report.
- c) Rosia Montana project – EIA documentation review stage, developer is SC RMGC SA;
- d) Project „ Operation of gold and silver ore *in Certej perimeter*", Hunedoara County, developer SC DEVA GOLD S.A. The EIA transboundary procedure with HU and Serbia is ended, the final decision is going to be translated and transmitted to these states.
- e) Project "Arges and Dambovita rivers arrangement for navigation and other uses ", Counties Ilfov, Giurgiu and Calarasi, developer - National Company Maritime Ports Administration SA Constanta;
- f) Project "Combined Cycle Gas Turbine (CCGT) of 400 MW in Vetis – Satu Mare", developer is SC Smart Electric Design SRL and SC Windexpert SRL, EIA final decision issued (Environmental Agreement), translated and transmitted to Hungary.
- g) Project "Central power system in Galati, Free Zone" – developer is SC Enel Productie SRL. RO has received comments on the EIA documentation from Ukraine and a positive answer from Republic of Moldova. The comments were submitted to the developer to be answered.
- h) Project "Improvement of the navigations conditions on the common Romanian - Bulgarian sector of the Danube River"- project under review for the EIA documentation and it will be continued under the next programming period.
- i) Nabucco project - developer Transgaz and the Ministry of Economy. The transboundary EIA procedures with Hungary and Bulgaria are completed, the national EIA procedure continues with the public hearing meetings along the proposed route of the project.

Romania as affected Party

- a) Project “Construction of Units 3 and 4 KMELNITSKI NPP, Ukraine” – the final decision of Ukraine has been taken before the transboundary EIA procedure with Romania and other states has been finished.
- b) Project “Decommissioning of Units 1-4 of the Kozloduy nuclear power plant, Bulgaria”- Romania participated in the scoping stage, the EIA documentation is expected.
- c) Project "LOM lignite mine in mountain regions ", Bulgaria – Romania participated in the scoping stage, the EIA documentation is expected.
- d) Project “Wind farm located in the Kiszombor village ", Hungary – stage: Romania is expecting the final EIA decision.
- e) Project “Southstream gas Pipeline on the territory of Bulgaria” and “ Southstream Offshore Pipeline – Bulgarian sector” – stage: România decided that there is no transboundary impact.
- f) Project „Facility for treatment and conditioning of solid radioactive waste with high volume reduction factor at Kozloduy NPP - Bulgaria " – stage Romania has participated in the scoping stage for this project; comments, proposals and requirements elaborated by the Romanian competent authorities have been sent to Bulgaria.
- g) Project “Building a new nuclear plant of last generation at Kozloduy, Bulgaria”- Romania furnished information on the likely affected Romanian territory.
- h) Project „ Construction of a National Disposal Facility for Low and Intermediate radioactive waste, NDF at Kozloduy, Bulgaria” – the transboundary EIA procedure is finalized, the final EIA decision was sent to Romania.

Romania as affected Party as well as Party of origin

- i) Project “Transfer of drinking water from Arad County in Romania to Bekes county in Hungary”- the EIA procedure is on-going;
- a) Project “Making safe and rehabilitation of the facilities for the Hydrotechnical Node Stanca Costesti " – the EIA procedure ended in 2011.
- b) Nabucco gas pipeline project – the national EIA procedure is on-going; the transboundary EIA procedure with Hungary is ended, with Bulgaria is not yet ended.
- c) Improvement of the navigations conditions on the common Romanian - Bulgarian sector of the Danube River – the EIA documentation is under review.

d) Does your country object to the inclusion of the above list of transboundary EIA procedures in a compilation of such procedures to be made available on the website of the Convention? (Indicate “yes” if you object.)

No.

e) Provide information and explanations on the average duration of transboundary EIA procedures, both of the individual steps and of the procedures as a whole.

The average duration of the transboundary procedures is:

Response to notification: 4 weeks

Participation in the scoping procedure: 4-6 weeks

Analysis of the EIA documentation and public debate: 8 weeks

The Romanian project “Combined Cycle Gas Turbine (CCGT) of 400 MW in Vetis – Satu Mare” – whole duration was 9 month (notification in September 2011 – final decision sent by Romania to Hungary in May 2012) which we consider a very good timing and a successful cooperation.

Some atypical projects have not observed the above mentioned duration.

E.g.:

a) Rosia Montana project: the notification of the potentially affected states took place on December 2004; 2 public hearings of the EIA documentation of this project were held in Hungary (Szeged and Budapest), in August 2006, average duration 5 hours. Consultations under art.5 of the Espoo Convention were held in July 2007 where Hungary asked for supplementary documentation; in September 2007 the Romanian environmental authorities stopped the procedure due to juridical aspects. The procedure is restarted in 2010, Romania submits the supplementary documentation asked for by Hungary in 2007, in August 2011 Hungary informs Romania about its refusal to accept this project.

b) Cernavoda U3 and U4 project: the application for the environmental agreement was submitted in 2006, the potentially affected states were notified in September 2006, the EIA documentation was submitted to MECC in 2007 (Bulgaria participated in the scoping stage), the documentation was sent to Bulgaria and Austria, in November 2007 two public hearings took place in Bulgaria (Silistra and Dobrich), in March 2008 consultations with Austria, based on art.5 of the Convention, took place in Bucharest, based on all points of view expressed in TRC, additional information and studies were requested by the MECC in 2010 (e.g.: the appropriate assessment study according to the Habitats Directive, for the Natura 2000 sites located in the project area), in July 2012 Bulgaria and Austria were informed about all additional information requested and posted on the web page of the project and Romania responses to all questions received from these states were transmitted to them for final agreement (also made available for the public by publishing them on the web page of the project). March 2013 - Romania is drafting now the final EIA decision including conditions requested by Bulgaria and Austria.

c) Decommissioning of Units 1-4 of the Kozloduy NPP in Bulgaria: response of Romania to the notification in 20 days, 40 days for the participation of Romanian authorities in scoping, 6 weeks for Romania to gather additional information requested by Bulgaria on the Romanian potentially affected territory, 1 year for Bulgaria to transmit the ToR for the EIA documentation to Romania, 4 weeks for Romania to make comments on ToR. Not finished the procedure yet, Romania is waiting for the EIA documentation.

d) Building a new nuclear plant of last generation at Kozloduy, Bulgaria – under this project Romania is an affected Party: 2 months for response to notification and scoping, 6 weeks for additional information requested by Bulgaria on the Romanian potentially affected territory; Romanian is expecting the ToR for the EIA documentation for this project.

d) *Central power system in Galati, Free Zone*” - the EIA documentation was transmitted in Ukraine in April 2012 for comments and opinions and Ukraine responded after 1 year, in March 2013, while Moldova answered in July 2012 that they do not have comments and proposals for the EIA documentation.

EXPERIENCE IN THE TRANSBOUNDARY ENVIRONMENTAL IMPACT ASSESSMENT PROCEDURE DURING THE PERIOD 2010–2012

f) If your country has had practical experience in the transboundary EIA procedure during the reporting period, has the implementation of the Convention supported the

prevention, reduction or control of possible significant transboundary environmental impacts? Provide practical examples if available.

The transboundary EIA procedures helped to remove the others Parties concern regarding significant effects.

E.g.:

- “Combined Cycle Gas Turbine (CCGT) of 400 MW in Vetis – Satu Mare” project: during the transboundary EIA procedure, after Hungary received and analyzed the EIA documentation Romania offered its contribution to re-model the impact on underground common aquifer using the data furnished by the Hungarian Party after the public debate; the Hungarian data referred to number, coordinates, depths and flow rates on Hungarian pumping wells. After reviewing the additional study, the Hungarian Party concluded that the Romanian project will not have a significant impact and will not influence the water supply of the Hungarian wells.

- “Continuing the construction and completion of units U3 and U4 at Cernavoda NPP” – the transboundary EIA procedure shared with Bulgaria and Austria helped to identify special concerns of these countries and to identify special measures and conditions to be included in the EIA final decision issued for the developer.

- Nevertheless, for Romania as an affected Party, in case of the Bulgarian project “Construction of a National Disposal Facility for Low and Intermediate radioactive waste, NDF at Kozloduy, Bulgaria”, the EIA documentation and the transboundary procedure developed by Bulgaria are not entirely satisfactory as some studies could not be provided for at this stage of authorization of the project; Bulgaria objected saying that at the EIA stage nuclear studies are not ready and can not be furnished to the Romanian Party.

g) *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. *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?*

Based on the accumulated experience until now we have realized that a special chapter treating transboundary impact is useful and is the best way for identifying the effects of a significant impact and the needed measures and conditions for the likely affected Party. But not all the EIA documentations elaborated by the developers for Romania as a Party of origin have a special chapter on this matter. Usually we determine how much information to be included asking to be observed the Annex II of the Espoo Convention as well as the existence of special protected area near the border, the results of dispersion modelling of pollutants or the results of flow modelling in case of water pollution, etc.

Sometimes the transboundary impact is treated in a separate documentation, based on a scientific study, as in case of “Combined Cycle Gas Turbine (CCGT) of 400 MW in Vetis – Satu Mare” project, where Romania has developed a separate hydrographical study applied to Somes - Tisa Basin (phase two study). This study was drawn up based on data received from Hungary, there were also other separate chapters/documentation, such as Report regarding the environmental impact on air

and on Nature protection and a special chapter on Romanian answers to Hungary's questions.

Rosia Montana project has special volumes on the likely transboundary impact, including on cumulative impact of the Rosia Montana project with Certej project.

By sharing experience with other countries we can mention that the EIA documentation received from Hungary on "Kiszombor Wind Farm project" had a separate section on potential transboundary impact on environmental factors and the same approach has been taken by Hungary also for EIA ToR for the "**Implementation of new nuclear power plant units – Paks NPP II project**"-assessment of possible transboundary impacts presented in a separate chapter (a project notified to Romania in 2013).

Ukraine furnished a separate chapter on transboundary impact in case of the project "*Construction of Units 3 and 4 at KMELNITSKI NPP*".

Romania furnished a separate volume on the cumulative impact of both Rosia Montana project and of the project, "Operation of gold and silver ore *in Certej perimeter*".

- b. *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?*

The MO 864/2002 requests the developer to translate in English the EIA documentation that is transmitted to the potentially affected Party.

In Nabucco case project, the developer was asked to translate the EIA documentation for the crossing section of the Danube River in Bulgarian.

During consultations under art.5 of the Convention interpretation is ensured by both the Romanian and the affected Party's authorities.

The Multilateral Agreement for the SE European States addresses the translation issue as follows: the notification must be made in English, comments and information on the likely affected environment are sent in English if the Party of origin requests so; the developer is obliged to translate into the language requested by the affected Party the description of the activity and its purpose, the non-technical summary, the description of the potential transboundary impact of the activity and its alternatives and an estimation of its significance, a description of the mitigation measures.

As difficulties we can mention that one of the affected country complained about receiving a bad translation of the documentation into their own language; we changed the translation firm.

Translation made in other languages but English can not be checked by the experts of the central environmental authority.

- c. *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? 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)?*

As a Party of origin Romania has requested the support of the affected Party for organizing public participation. The affected Party provided for the venue of the public hearing, informed its own public and asked the public to participate, made

available the EIA documentation received from Romania; Romania provided for the translation of the documentation and participated through the representatives of the environmental competent authority (ministry and local environmental authority) together with the EIA team of experts to the public hearing, provided the presentation of the project and of the EIA documentation and responded to the questions on the spot (e.g.: Certej mining project in Serbia and Hungary; Cernavoda units 3 and 4 in Bulgaria; Combined Cycle Gas Turbine (CCGT) of 400 MW in Vetis – Satu Mare” project in Hungary).

- d. *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?*

The language of the consultations was never a problem; we always agreed before consultation on the language that will be used during the consultation days.

We also agreed how and when the consultation will be considered ended, usually the consultation was not ended until Romania, as a Party of origin would send additional information, studies and answers to the likely affected Parties (e.g.,Rosia Montana project, Cernavoda U3 and U4 project, Certej project, Vetis project). This prolonged the national EIA procedure, sometimes quite a lot.

In case of Romania as an affected Party for the nuclear waste repository at Kozloduy, Bulgaria, we had consultations under art.5 with Bulgaria. We consider that Bulgaria could have demonstrated more flexibility to the Romanian requests (no supplementary documentation/studies were transmitted to Romania).

- e. *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;*

The EIA final decision is issued when the EIA national and transboundary procedure is ended and its content is provided for by the MO 135/76/84/1284/2010 for approval of the EIA methodology for private and public projects, in Annex 18.

The final EIA decision contains:

- Name and location of the project,
- Description of the project and the proposed works, equipments and installations
- Measures for preventing, mitigation and where possible, compensation of the significant, adverse effects
- The results of the assessment procedure/study applied in case Natura 2000 sites can affected
- Conditions that must be observed during construction, operation and closing stage, including dismantling stage
- Information on public participation process
- Information on access to justice for the administrative act issued.

This EIA final decision is attached to the development consent, which in most cases is the construction authorization.

For the affected Parties the final EIA decision is usually translated in English and is communicated by the Romanian central environmental authority to the affected Parties that were involved in the procedure.

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

A post project monitoring of the nuclear activity has been carried out for Units 1 and 2 of the NPP Cernavoda.

- g. *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.);*

Nabucco gas pipeline is a joint cross border project – Romania has successfully finished the transboundary EIA procedure with Hungary and Bulgaria. Hungary submitted to Romania the EIA final decision in which the Romania requests were taken into consideration. Bulgaria is still having national consultations to which has also invited Romania. Romania participated at the public hearings that took place on the Bulgaria territory at Oriahovo and Mizia.

The cooperation on the EIA procedure was developed between the focal points of the Espoo Convention for Romania, Hungary and Bulgaria.

There was also cooperation at the level of the developer that was represented in every country (Bulgarian Nabucco comp., Romanian Nabucco comp., and Hungarian Nabucco comp.).

Romania and Bulgaria met for making arrangements for the EIA procedure and the content of the EIA documentation for Danube crossing section. The meeting was held in English, the documentation was translated in Bulgarian enabling the Bulgarian public to have the easiest access in order to make comments.

We also remarked a good cooperation between the Romanian EIA team and the Bulgarian EIA team.

The EIA documentation for the Danube crossing section of the pipeline was elaborated by the Romania EIA team based on data delivered by the Bulgarian experts and was transmitted officially by the Romanian Ministry of Environment and Climate Change to its homologue in Bulgaria.

The project “Improving navigation on the common Romanian Bulgarian section of the Danube river” demonstrated a good cooperation on the appropriate assessment study for the Natura 2000 sites on the Danube river banks, in accordance with the Habitats Directive. Based on these grounds, the same good cooperation will contribute to the joint EIA for this project.

For “Stanca Costesti project” the EIA documentation was elaborated by Romanian EIA experts and included also the project for the Moldavian Party, the language used for the EIA documentation was Romanian and we consider this an advantage, no additional costs were needed for translation. The EIA documentation was available for the public of Republic of Moldova in Romanian.

- h. *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”?*

Good practice elements that are to be mentioned for the period 2010 – 2012: the cooperation with Hungary on the Combined Cycle Gas Turbine (CCGT) of 400 MW in Vetis – Satu Mare” project.

Cooperation with Bulgaria and Austria on the “Continuing the construction and completion of units U3 and U4 at Cernavoda NPP” project.

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

The most common means of applying the Convention is through focal points.

The bilateral agreements in case of common projects are practical and facilitate the implementation of such projects.

CO-OPERATION BETWEEN PARTIES IN 2010–2012

- h) *Does your country have any successful examples of how it has overcome difficulties arising from different legal systems in neighbouring countries? If so please specify.*

We may consider that other neighbouring countries have different legal systems if they are not Member states of the European Union. Consequently, their legislation in the EIA field does not transpose the European legislation and this fact conducted to misunderstandings of the requirements of the Convention. Unfortunately, such difficulty was not overcome by bilateral cooperation.

Romania has had a successful cooperation in the application of the Espoo Convention with neighbouring countries that are also member states of UE, any difficulty was overcome by mutual understanding supported by the same national legislation transposing the EU requirements. It is easier to cooperate when one has the same legal background. It is much easier when flexibility of the other Party is manifested.

EXPERIENCE IN USING THE GUIDANCE IN 2010–2012

- i) *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 (ECE/MP.EIA/7);*

Romania consulted the guidance during the application of procedures seeking examples of how the public was involved in other countries procedures, also how long transboundary procedures in other countries are.

- b. *Guidance on subregional cooperation (ECE/MP.EIA/6, annex V, appendi);*

No.

- c. *Guidelines on good practice and on bilateral and multilateral agreements (ECE/MP.EIA/6, annex IV, appendix).*

This guidance has been used in the development of the Multilateral Agreement for the Implementation of the Espoo Convention in SE European Countries. Romania participated to the elaboration and negotiation text of this agreement.

CLARITY OF THE CONVENTION

- j) *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?*

Romania had difficulties in implementing the procedure of the Convention as an affected Party in the case of the Bulgarian nuclear waste depository at Kozloduy. The Bulgarian Party was not very flexible regarding the deadlines requested by the Romanian side. Such a project, in order to be assessed needed specific technical expertise and the formulation of opinions is time consuming. On the other hand we consider that we had difficulties due to the fact that all requested studies and information which were of scientific and nuclear nature could not be available at the transboundary EIA stage, as the Bulgarian Party responded, but later, within the nuclear authorization procedure.

Romania had difficulties also as a Party of origin for the Rosia Montana project, especially when receiving the refusal of Hungary on this project, even if all requested information and studies were developed and delivered.

The provisions of the Convention are unclear in respect of the “final decision”; it is not clear what does the Convention mean by “final decision”; as it speaks about the transboundary EIA procedure that has to be integrated within the national EIA procedure it can be understood that the final decision is the administrative act issued by the competent environmental authority for the EIA procedure. Romania has a two steps procedure for the implementation of a project: the EIA decision is issued first, the development consent is issued secondly, and the EIA decision is attached to the development consent.

AWARENESS OF THE CONVENTION

k) 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.

In Romania the Convention has gained great awareness among the public because of the major projects with a possible significant effect on the environment, such as: Cernavoda NPP, Kozlodui radioactive waste disposal, Bastroe project, Rosia Montana project. No recently promotion of the Convention. The environmental NGOs demonstrated within the last two years a very thorough knowledge of the provisions of the Convention.

l) 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?

Romania tries to apply the Convention in a constant manner.

SUGGESTED IMPROVEMENTS TO THE REPORT

m) Please provide suggestions for how this report may be improved.

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