

Environmental Impact Assessment (EIA) Working Group, 1st Meeting

8 April 2021
(WebEx online)

Conclusions

1. Due to the Covid-19 pandemic, the meeting was held online via WebEx. The EIA Working Group welcomed that representatives of all Contracting Parties, with the exception of the Republic of Serbia and Albania, were able to attend the 1st meeting. The EIA Working Group also welcomed that the representative of the Bern Convention on the Conservation of European Wildlife and Natural Habitats and representatives of the civil society sector attended the meeting.
2. The opening remarks to the meeting were given by the Deputy Director of the Energy Community Secretariat and Legal Counsel, Dr. Dirk Buschle. He stressed that more and more cases are submitted to the attention of the Secretariat concerning the transposition and implementation of the EIA Directive. Dr. Buschle also noted that the amendments introduced by Directive 2014/52/EU with an implementation deadline of January 1st 2019 are not yet transposed by all Contracting Parties. He pointed that the Secretariat's priority is to resolve the challenges rather in a cooperative than in a confrontational manner and that the creation of the EIA Working Group should help and assist the Contracting Parties to improve the environmental impact assessment procedures.
3. The following goals of the EIA Working Group were presented by the Secretariat:
 - To identify challenges in the transposition and implementation of the EIA Directive throughout joint discussions and assessments, and
 - Address them accordingly via specific actions, including legislative proposals and amendments, capacity building, share of know-how and best practices.
4. The EIA Working Group adopted the draft agenda of the meeting.
 - I. ***Amendments by Directive 2014/52/EU – the most important changes and relevant case law***
5. Following the introductory remarks, the European Commission, represented by Slavitzza Dobrova De Schietera from the Mainstreaming and Environmental Assessment Unit (DG Environment) held a presentation on the amendments introduced by Directive 2014/52/EU. The presentation included a detailed explanation of each step of the EIA Directive and the new elements introduced by the amendments. The explanation was followed by a presentation of relevant case-law of the Court of Justice of the European Union concerning the definition of a project, the determination of the screening criteria and the assessment of the cumulative impacts of a project.
 - II. ***Good practices of implementing the Directive 2014/52/EU in EU Member States***
6. The Secretariat held a presentation on good practices of implementation of the amending directive in EU Member States. The presentation focused on the implementation of the amended

Article 2(3) concerning the joint or coordinated procedures in Estonia, Bulgaria and Slovenia; the implementation of Article 9a on conflict of interest in Slovenia; and the implementation of Article 10a on penalties concerning the enforcement of the EIA in Hungary.

III. Transposition of the amending Directive 2014/52/EU in Montenegro

7. Montenegro is among the first Contracting Parties to transpose the 2014 amendments into its national legislation already in 2017, 2 years ahead of the official transposition deadline. A presentation was held by Ms. Brankica Cmiljanovic, Head of Directorate for Horizontal Legislation of the Ministry of Spatial Planning and Environment. Ms. Cmiljanovic shared the positive experience in the preparation of the legislation with the involvement of the civil society sector and elaborated on the challenges identified in the implementation and enforcement concerning the quality of the EIA reports, especially in transboundary impact assessments, the capacity of the competent authority as well as the capacities of the State Inspectorate to monitor the implementation of the conditions posed by the EIA. Ms. Cmiljanovic also summarized the benefits of transposing the amendments stating that it made many decisions on public and private investments more sound, more predictable and more sustainable.

IV. Joint Discussion - challenges in the transposition and implementation of the EIA Directive and next steps

8. Following the presentations, the Secretariat invited the Contracting Parties to inform on current activities concerning the transposition of the 2014 amendments and to share good practices or the identified challenges in the implementation and enforcement of the EIA.
9. The representative of Georgia informed that draft amending legislation for further alignment of the national legislation with the EIA is being prepared and that it will be shared with the Secretariat for review. Georgia informed about the issues concerning the implementation of transboundary impact assessment due to the fact that its bordering countries are not parties to the Energy Community, nor the Espoo Convention.
10. North Macedonia announced that legislation for transposing the 2014 amendments will be prepared within an IPA EU project scheduled for late 2021/2022. The Macedonian representatives stressed the challenges concerning the EIA screening of small hydropower projects, especially their cumulative impact and requested assistance and guidance in this domain.
11. Kosovo* announced that the draft amendments to the EIA Law transposing the 2014 amendments are prepared and will be communicated to the Secretariat. The representatives of Kosovo* stressed the challenges in the screening phase, namely the lack of human and technical capacity for proper implementation of the screening.
12. Ukraine noted that the 2017 EIA Law already transposes the 2014 amendments. The representative of Ukraine informed that the level of alignment of the 2017 EIA Law will be further elaborated in the answer letter to the Secretariat.
13. Moldova informed that the current EIA Law is not aligned with the EIA Directive and the 2014 amendments. The representative of Moldova announced that within the EU4Environment

regional project legislative assistance for the review of EIA Law is foreseen and that at the moment the first draft amendments are prepared. The draft amendments will be shared with the Secretariat for review. The representative further stated that lack of technical and human capacity of the Environmental Agency responsible for the implementation of the EIA procedure.

14. Montenegro expressed its interest in working on strengthening the capacities and share of experience and expertise among the Contracting Parties. The representative of Montenegro stressed that assistance in terms of the EIA is needed for the following transboundary HPP projects: Buk Bjela (BiH) and Cijevna (Albania).
15. Several clusters of joint activities were identified by the Secretariat during the discussion following the presentations: assistance in the preparation and revision of legislation, specifically in the cases of transboundary impact assessment was emphasized. The Secretariat also took note of the individual energy projects where assistance and know-how are required. Based on this input the Secretariat will prepare the draft Work Programme, which will be adopted at the next meeting of the EIA Working Group.

V. Conclusion/Next steps

16. Contracting Parties are invited to submit any new or amendments to existing legislation concerning the transposition and implementation of the EIA Directive to the Secretariat for review. The Secretariat also offers its assistance to the Contracting Parties in preparation of new or amendments to existing legislation.
17. Contracting Parties are also invited to propose additional initiatives concerning the legislation, capacity building and enforcement and possible share of best practices and know-how that would like to be included in the EIA Working Group Working Programme.

VI. AOB

18. The next meeting of the EIA Working Group is foreseen for September 2021.