

GOVERNMENT OF THE REPUBLIC OF MONTENEGRO
MINISTRY OF ENVIRONMENTAL PROTECTION
AND PHYSICAL PLANNING

LAW
ON ENVIRONMENTAL IMPACT ASSESSMENT

Podgorica, November 2005

LAW ON ENVIRONMENTAL IMPACT ASSESSMENT

I. GENERAL PROVISIONS

Scope Article 1

This Law shall regulate the impact assessment procedure for projects that may have significant impact on the environment, contents of the Environmental Impact Assessment Study, participation of authorities, organisations, and the public concerned, evaluation and procedure of approval issuing, exchange of information on projects that may have significant impact on the environment in another state, supervision and other issues of relevance for the Environmental Impact Assessment (EIA).

Objective of EIA Article 2

The EIA shall identify, describe and assess, in each individual case, the potential direct or indirect impact of an intended project on the following:

- 1) human life and health, flora and fauna;
- 2) land, water, air, climate and landscape;
- 3) material assets and cultural heritage;
- 4) mutual relations of elements listed under points 1) to 3) of this paragraph.

Subject of EIA Article 3

EIA covers intended and ongoing projects that may have significant impact on the environment or human health.

Impact assessment shall also be undertaken for projects in industry, mining, energy, transport, tourism, agriculture, forestry, water management and utilities, as well as for all the projects that are planned on protected natural heritage sites and within the protected environment of immovable cultural heritage.

The provisions of this Law shall not apply to projects serving the national defence purposes or aimed at remediation of consequences of weather and natural disasters.

Competent Authority Article 4

Competent authorities responsible for the implementation of the EIA procedure (hereinafter referred to as: Competent Authority) shall be:

- 1) a state authority responsible for environmental protection – for projects for which approvals, permits and licences are issued by other state authorities;
- 2) a local authority responsible for environmental protection – for other projects for which approvals, permits and licences are issued by other local authorities.

Projects Requiring EIA **Article 5**

The Government of the Republic of Montenegro (hereinafter referred to as: the Government) shall pass the regulation prescribing:

- 1) List of projects for which EIA is mandatory;
- 2) List of projects for which EIA may be required.

The Competent Authority shall decide on the need for EIA for projects referred to in paragraph 1, bullet point 2 of this Article on the case by case basis.

Obligation to Have the EIA Approved **Article 6**

A project developer may not commence with project implementation without having conducted EIA procedure and obtained the approval of the Competent Authority for the EIA Study.

Definition of Terms **Article 7**

The terms used in this Law shall have the following meaning:

- 1) **Project** shall mean construction, reconstruction, installation, removal and disassembling of structures, plants or systems, remediation, other interventions in nature and natural environment, including exploitation of mineral ores;
- 2) **Project Developer** shall mean any domestic or foreign legal person or entrepreneur that applies for approval for project implementation;
- 3) **Environmental Impact Assessment** (hereinafter referred to as: EIA) shall mean the identification and evaluation of potentially significant impacts of projects and determination of modalities for prevention, elimination, mitigation, or remediation of harmful effects on the environment and human health;
- 4) **Public** shall include one or several physical or legal persons, associations and organisations;
- 5) **Public Concerned** shall include the public affected or likely to be affected by the project, including the non-governmental organisations dealing with environmental protection and registered with the authority responsible for environmental protection in compliance with the law;

- 6) **Authorities and Organisations Concerned** are public authorities and organisations, local authorities and other legal entities that are authorised by the law to set conditions and issue permits and approvals for construction of buildings, execution of works, physical planning, execution of activities and protection and use of natural and man-made assets.

II. ENVIRONMENTAL IMPACT ASSESSMENT PROCEDURE

Stages in EIA Procedure Article 8

The EIA procedure shall include:

- 1) decision on the need for conducting EIA;
- 2) defining the scope and contents of the EIA Study (hereinafter referred to as: the Study);
- 3) decision on approval of the Study.

The decision referred to in paragraph 1, bullet point 1 of this Article shall not be made for projects for which EIA is mandatory.

Collecting Data, Information and Documentation Article 9

The Competent Authority and other authorities and organisations shall provide, at the request of the project developer, the necessary data, information and documentation of relevance for the identification and assessment of potential direct and indirect impact of the project on the environment.

Within 15 days from the receipt of such a request, the authorities and organisations referred to in paragraph 1 of this Article shall provide the project developer with the requested data, information and documentation they dispose with.

When the authority or organisation referred to in paragraph 1 of this Article does not dispose with the requested data, information and documentation, it shall inform in writing the project developer accordingly within the period referred to in paragraph 2 of this Article.

1. Decision on the Need for EIA

Application for Decision Article 10

The project developer shall submit the application to the Competent Authority to decide on the need for EIA.

The project developer shall submit the following along with the application referred to in paragraph 1 of this Article:

- 1) Description of the site;
- 2) Description of the project;
- 3) Outline of potential impacts of the project on the environment;
- 4) Filled questionnaire relating to the impact of the project on the environment.

The contents of documentation referred to in paragraph 2 of this Article shall be further elaborated by the regulation enacted by the state authority responsible for environmental protection issues.

Consideration of the Application

Article 11

Upon the receipt of the application enquiring about the need for EIA, the Competent Authority shall check whether the prescribed documentation has been submitted along with it.

When the documentation accompanying the application referred to in paragraph 1 of this Article is incomplete, the Competent Authority shall request the additional data, information and documentation from the project developer and set the period for their submission.

Should the applicant fail to submit the additional data, information and documentation within the set period, the Competent Authority shall refuse the application as incomplete, except in the case referred to in Article 9, paragraph 3 of this Law.

Information Dissemination

Article 12

The Competent Authority shall inform the authorities and organisations and the public concerned of submitted application to decide on the need to conduct EIA within seven days from the receipt of a complete application.

The information referred to in paragraph 1 of this Article shall contain:

- 1) The name of the project developer;
- 2) Title of the project;
- 3) Place and time granted for examination of the documentation;
- 4) Name and address of the Competent Authority to which the opinion is to be submitted.

The authorities, organisations, and the public concerned can submit their opinions about the submitted application to the Competent Authority within ten days from the receipt, or publication of the notification referred to in paragraph 1 of this Article.

Decision-making

Article 13

The Competent Authority shall decide on the need for conducting EIA within ten days from expiry of the period set in Article 12, paragraph 3 of this Law.

In deciding thereupon, the Competent Authority shall take into account the submitted opinions referred to in Article 12, paragraph 3 of this Law.

Right to Appeal Article 14

An appeal may be filed to the head administrator against the decision referred to in Article 13, paragraph 1 made by the Competent Authority referred to in Article 4, paragraph 1, bullet point 2.

2. Decision on the Contents and Scope of the EIA Study

Application for the Decision on the Scope and Contents Article 15

The project developer is entitled to submit an application for the decision on the scope and contents of the Study.

The project developer shall submit the following along with the application referred to in paragraph 1 of this Article:

- 1) General information;
- 2) Description of the site;
- 3) Description of the project;
- 4) Outline of the main alternatives considered;
- 5) Description of environmental elements;
- 6) Description of potential significant impacts on the environment;
- 7) Description of measures planned for prevention, reduction and elimination of significant negative impacts;
- 8) Summary of data listed in bullet points 2) to 7) of this Paragraph;
- 9) Data on potential difficulties that the project developer has encountered in collecting information and documents;
- 10) Filled questionnaire for determination of the contents and scope of the Study.

The competent state authority responsible for environmental protection issues shall regulate more precisely the contents of documentation referred to in paragraph 2 of this Article.

Decision upon the Application Article 16

The Competent Authority shall act in the way set forth in Article 11 of this Law upon the receipt of the application for the decision on the contents and scope of the Study.

The Competent Authority shall submit the complete application to the Commission referred to in Article 21 of this Law within five days.

The Commission shall consider the application and submit the proposal of the

contents and scope of the Study to the Competent Authority within 15 days from the receipt of the application.

The Competent Authority shall inform the project developer, authorities, organisations, and the public concerned about the proposal of the Commission within seven days from the receipt of the proposal.

The authorities, organisations and the public concerned may submit their opinions to the Competent Authority within 15 days from the receipt of the Commission's proposal.

Within 20 days from the expiry of the deadline for submission of opinions, the Competent Authority shall make the decision on the contents and scope of the Study.

In taking a decision, the Competent Authority shall take into account the opinions of authorities and organisations and public concerned.

The Competent Authority shall deliver the decision on the contents and scope of the Study to the project developer and it shall inform the authorities, organisations, and the public concerned about such decision within seven days from the date on which it has been passed.

3. Decision on the Approval to the EIA Study

Application for Approval Article 17

The project developer shall submit to the Competent Authority the application for approval to the EIA Study.

The project developer shall submit the EIA Study together with the application referred to in paragraph 1 of this Article.

If the Competent Authority has decided on the scope and contents of the Study, the project developer shall submit the application for approval not later than within one year from the receipt of the final decision on the scope and contents of the EIA Study.

If the project developer referred to in paragraph 3 of this Article submits the application for approval upon the expiry of the prescribed period, the Competent Authority shall decide on the application depending on circumstances in each individual case.

Contents of the Study Article 18

The Study analyses and assesses environment elements quality and their sensitivity at a certain site, mutual influence of the existing and planned activities, forecasts of direct and indirect impacts of project implementation to the environment as well as

the measures and conditions for prevention, elimination, mitigation or remediation of harmful impact to the environment and human health.

The Study is an integral part of documentation necessary for obtaining a permit, an approval or authorisation for project implementation or for obtaining the certificate of occupancy.

The Study shall contain the data referred to in Art. 15, paragraph 2, bullet points 1 to 9 of this Law.

In addition to the data referred to in paragraph 3 of this Article, the Study shall also contain the data on organisations and persons who participated in its elaboration and environmental impact monitoring programme.

The conditions and authorisations obtained by other competent authorities and organisations shall be attached to the Study, in accordance with the Law.

The public authority responsible for environmental protection issues shall prescribe more precisely the contents of the Study.

Approval for Elaboration of the Study **Article 19**

The Study can be elaborated by a legal person or an entrepreneur who are entered in the appropriate register for performing planning and engineering activities and development of studies and analyses.

Legal persons and entrepreneurs referred to in paragraph 1 of this Article shall entrust the multi-disciplinary team composed of persons qualified for analyses of project impact on each of the environmental elements with the task of the Study elaboration.

Persons holding a university degree and with at least 5 years of work experience in the certain field, or holding the title of an authorised designer or an appropriate academic title are considered qualified for the analysis of project impact on certain relevant environmental elements.

Public Debate on the Study **Article 20**

Within ten days from the receipt of the application for approval for the Study, the Competent Authority shall inform authorities, organisations and the public concerned about the manner, time and venue for public viewing, submission of opinions and remarks, as well as the time and venue for holding the public debate on the Study.

The public debate referred to in paragraph 1 of this Article may not be held sooner than 20 days from the day when the authorities, organisations and the public concerned were informed.

The public debate shall be organised and chaired by the Competent Authority.

The project developer and at least one person who participated in the Study elaboration shall participate in the public debate.

Environmental Impact Assessment Commission Article 21

The Competent Authority shall establish a Commission responsible for setting the contents and scope of the Study and its evaluation (hereinafter referred to as: Environmental Impact Assessment Commission), to determine the contents and scope of the Study and evaluate the Study.

The Environmental Impact Assessment Commission members shall be appointed among the employees of the Competent Authority and other experts.

The decision on the establishment of the Environmental Impact Assessment Commission shall stipulate its membership, composition and methods of its work.

Persons who participated in the Study elaboration, or employees of the legal person or entrepreneur that elaborated the Study, cannot be members of the Environmental Impact Assessment Commission.

Study Evaluation Article 22

Within seven days from the date of the public debate, the Competent Authority shall submit the Study to the Environmental Impact Assessment Commission together with the remarks and opinions obtained during the public viewing period and the debate.

The Environmental Impact Assessment Commission may demand from the Project Developer to make certain modifications and amendments to the Study as submitted.

The project developer shall act as stipulated in Paragraph 2 of this Article and submit to the Environmental Impact Assessment Commission the modified and amended text of the Study within the deadline set forth by the Commission.

Should the project developer fail to act as stipulated in paragraphs 2 and 3 of this Article, the Environmental Impact Assessment Commission shall carry on with its work based on the available documentation.

The Environmental Impact Assessment Commission shall submit the report concerning the Study evaluation to the Competent Authority not later than within 30 days from the date of receipt of documentation referred to in paragraph 1 of this Article.

The time left to the project developer pursuant to the paragraph 3 of this Article shall not be calculated in the period referred to in paragraph 5 of this Article.

EIA Costs
Article 23

The costs for the elaboration of and the amendments to the Study, information dissemination and public participation, organising and leading the public debate, as well as the costs for the work of the Environmental Impact Assessment Commission shall be covered by the project developer.

Decision on Granting the Approval
Article 24

The Competent Authority shall decide on granting the approval or rejecting the application for approval of the Study based on the report and proposals of the Environmental Impact Assessment Commission.

Within ten days from receiving the report and proposals of the Environmental Impact Assessment Commission, the Competent Authority shall make and deliver to the Project Developer the decision referred to in paragraph 1 of this Article.

The Competent Authority is obliged to inform the authorities and organisations and public concerned about its decision referred to in paragraph 1 of this Article within the period referred to in Paragraph 2 of this Article, making available the following:

- 1) contents of the decision and conditions, if stipulated;
- 2) grounds for the Decision, including the reasons for accepting or rejecting the comments, suggestions and opinions of authorities and organisations and public concerned;
- 3) if needed, the description of the most important measures the project developer is obliged to undertake in order to prevent, eliminate, mitigate or remediate harmful consequences.

Right to Appeal
Article 25

An appeal against the Decision referred to in Article 16, paragraph 8 and Article 24, paragraph 1 of the Competent Authority referred to in Article 4, paragraph 1, bullet point 2, may be filed to the head administrator.

Termination of Approval Validity
Article 26

The Study approval shall terminate if the project developer fails to obtain the project execution permit or authorisation within two years from the date of delivery of the Decision on granting the approval.

Implementation of Measures Contained in the Study

Article 27

The project developer shall undertake all the measures envisaged by the Study that has been approved.

For the projects for which the Study has been approved, the Competent Authority shall ascertain whether all measures envisaged by the Study have been carried out.

If the Competent Authority referred to in paragraph 2 of this Article determines that not all the measures envisaged by the Study have been undertaken, the certificate of occupancy may not be issued.

Application of the Law on General Administrative Procedure

Article 28

The provisions of the Law regulating general administrative procedure shall apply accordingly to the decision making procedure pursuant to this Law with respect to those issues that have not been explicitly regulated by this Law.

III. INFORMATION, REGISTER KEEPING AND ACCESS TO DATA

Public Information Methods

Article 29

When the Competent Authority is obliged to inform the public pursuant to the provisions of this Law, such information shall be made public in at least one local or daily paper published in the territory to be affected by the intended project, as well as by means of electronic media.

The Competent Authority shall inform the authorities and organisations concerned delivering written notices by fax and electronic media.

Information on Transboundary Impact

Article 30

When an intended project may have a significant impact on the environment in another state, or when another state whose environment could be significantly threatened requests so, the state authority responsible for environmental protection issues shall promptly, and not later than within the deadlines set forth for informing its own public, submit to another state the information concerning:

- 1) the project, together with all available data on its possible impacts;
- 2) the nature of the decision that may be adopted; and
- 3) the period within which another state can announce its intention to participate in the impact assessment procedure.

The state authority responsible for environmental protection issues shall inform the

state that participated in the impact assessment procedure about the decision on granting or rejecting the approval to the EIA Study by providing information on:

- 1) the contents of the Decision and conditions if they were set;
- 2) the grounds for the Decision, including the reasons for accepting or rejecting the remarks, proposals and opinions of the authorities, organisations and the public concerned;
- 3) the most important measures the project developer should undertake in order to eliminate, prevent, mitigate or remediate harmful impact.

The state authority responsible for environmental protection issues shall inform the public as envisaged by Article 29 of this Law about the information it receives on transboundary impact of a proposed project in another state.

The state authority responsible for environmental protection issues shall take into account the obtained opinions of the public concerned when submitting the opinion to the competent authority of another state.

Information and consultations with other states about potential transboundary impact shall be carried out based on the principle of reciprocity, in accordance with the international agreements concluded.

Obligation to Keep Records and Set up a Data Base **Article 31**

The Competent Authority shall keep records of procedures and decisions relating to granting or refusing to grant the approval for the Study.

The records referred to in paragraph 1 of this Article shall be in the form of the public register (hereinafter referred to as the: Register). The state authority responsible for environmental protection issues shall prescribe the contents, format and method of Register keeping.

Access to Data **Article 32**

The Competent Authority is obliged to provide access to the data relating to the EIA procedure conducted to the authorities and organisations and public concerned within 15 days from the receipt of the written request for information.

Documents classified as business, official or state secret shall be excluded from the obligation of being disclosed to the public as stipulated by paragraph 1 of this Article.

Business, official or state secret cannot protect the data relating to harmful emissions, risks from accidents, monitoring results and inspection supervision.

IV. INSPECTION SUPERVISION

Supervision of Law Enforcement

Article 33

The competent state environmental protection authority and competent local authorities responsible for environmental protection issues shall carry out the inspection supervision over the enforcement of this Law and regulations enacted pursuant to it in accordance with their responsibilities set by this Law.

The Environmental Inspectorate shall carry out the inspection supervision within the responsibilities of the competent state environmental protection authorities and in accordance with the law.

While performing the inspection supervision, the environmental inspector shall check in particular:

- 1) whether the project developer has obtained the Decision of the Competent Authority on the need for EIA;
- 2) whether the project developer has obtained the approval on the EIA Study;
- 3) whether the project developer is undertaking measures envisaged by the Study that has been approved.

Measures of Environmental Inspector

Article 34

In addition to administrative measures and actions set forth by the law on inspection supervision, the environmental inspector shall undertake the following administrative measures and actions when stating that the law or other regulation has been violated:

- 1) order the project developer to obtain the Decision of the competent authority on the need for EIA elaboration;
- 2) order the project developer to obtain the approval for the Study;
- 3) order the project developer to undertake measures envisaged by the Study;
- 4) order the project developer to implement the programme for monitoring environmental impact; and
- 5) prohibit the project developer to execute the works until the approval of the competent authority for the Study is obtained.

V. PENALTY PROVISIONS

Violations

Article 35

A legal person or an entrepreneur shall be fined with the amount of one hundred to three hundred times the minimum wage in the Republic of Montenegro if they:

- 1) start the project implementation without having conducted the EIA procedure and obtained the approval of the Competent Authority for the Study (Article 6);

- 2) fail to undertake all the measures envisaged by the Study for which the approval has been granted for (Article 27, Par. 1).

The responsible person in the legal entity shall also be fined in the amount of one to twenty times the minimum wage in the Republic of Montenegro for the violation referred to in paragraph 1 of this Article.

For the violation referred to in paragraph 1 of this Article the perpetrator may also be imposed the protective measure of prohibiting the execution of activities for the period lasting from one month to one year.

Article 36

The competent state authority and the competent local authority shall be fined with the amount from one hundred to three hundred times the minimum wage in the Republic of Montenegro if:

- 1) they fail to organise the public debate in accordance with provisions of Article 20 of this Law;
- 2) they issue the approval for the Study contrary to provisions of Article 24, paragraph 1 of this Law;
- 3) they issue the certificate of occupancy contrary to provisions of Article 27, paragraph 2 of this Law;
- 4) they fail to inform the public of any transboundary impact in accordance with Article 30 of this Law;
- 5) they fail to keep records in accordance with Article 31 of this Law;
- 6) they fail to provide access to the EIA documentation in accordance with Article 32, paragraph 1 of this Law.

The responsible person in the competent state authority and the competent local authority shall also be fined with the amount from one to five times the minimum wage in the Republic of Montenegro for the violations referred to in paragraph 1 of this Article.

VI. TRANSITIONAL AND FINAL PROVISIONS

Deadline for Enactment of Bylaws Article 37

Bylaws based on this Law shall be enacted within six months from this Law coming into force.

Consideration of Previously Submitted Applications Article 38

The applications submitted prior to this Law entering into force shall be considered in accordance with the Environment Law (Official Gazette of the Republic of Montenegro, no. 12/96) and the Decree on the Impact of Undertakings on the

Environment (Official Gazette of the Republic of Montenegro, no. 14/97).

Expiry of Current Legislation
Article 39

The provisions of Art. 17, 18, 19, Art. 36, paragraph 1, bullet point 1, Art. 37, Art. 44, paragraph 1, bullet point 1 and Art. 46, paragraph 1, bullet points 2 and 3 of the Environment Law (Official Gazette of the Republic of Montenegro, no. 12/96) shall cease to be valid with this Law entering into force.

Entry into Force
Article 40

This Law shall enter into force on the eighth day from its publication in the Official Gazette of the Republic of Montenegro and it shall be applied beginning with January 1st, 2008.