

Questionnaire for the

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

in the period 2006–2009

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

DOMESTIC IMPLEMENTATION OF THE CONVENTION

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

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 Forests - MEF -) 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) - 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.

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

The ratification of the Multilateral Agreement for the implementation of the Espoo Convention among the SE Europe countries.

TRANSBOUNDARY ENVIRONMENTAL IMPACT ASSESSMENT PROCEDURE

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

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

The competent authorities in charge with the national EIA procedure, pending on the location and size of the project, are as follows:

- 42 Environmental Protection Agencies (EPAs), one in each local county which is called "judet" (the counties are administrative territorial units of Romania, there are 42 such units);
- 8 Regional Environmental Protection Agencies (REPAs);
- National Environmental Protection Agency (NEPA);
- Administration of the Danube Delta Biosphere Reserve
- Ministry of Environment and Forests (MEF), the former Ministry of Environment and Water Management (MEWM).

These authorities issue the "environmental agreement" - the regulatory act that is part of the development consent that entitles a developer to start a project. This means that the developer has to obtain first the environmental agreement, then the development consent (this is usually the construction authorization) and only after that, the developer is "free" to start the project.

The above mentioned competencies for issuing the environmental agreement are provided for in the new MO 135/76/84/1284/2010. The ministerial order just mentioned is the piece of legislation which describes the EIA procedure (including the appropriate assessment provided by the Habitats Directive) that is finalized with the issuing/rejection of the environmental agreement.

The national EIA procedure is developed in 3 stages: the screening stage, the scoping stage and the quality review stage.

The public is involved in all three stages of the EIA procedure: in screening, in scoping and in quality review stage of the EIA documentation (EIA Report). The public information and participation in the EIA procedure is ensured by:

- a) public announcement of the developer's application for a private/public project, submitted to the environmental competent authority;
- b) public announcement of the screening decision (made both by the environmental competent authority and the developer);
- c) public hearing of the project and of the EIA documentation;
- d) public announcement of the decision to issue or not the environmental agreement.

All these announcements are accompanied by information on place and daily programme in which the public can obtain any information regarding the stage of the procedure, the project, the EIA documentation, as appropriate, and on the place and deadline until the comments are received. The new MO 135/76/84/1284/2010 provides in its annexes the format for such public announcements.

The EIA procedure is carried out by environmental authorities with the consultation of other authorities within the TRC (includes representatives of the following authorities: Ministry of Environment and Forests, Ministry of Regional Development and Tourism, Ministry of Health, Ministry of Agriculture and Rural Development, Ministry of Economy, Ministry of Culture and National Heritage, Ministry of Transport and Infrastructure, Ministry of Public Administration and Interior, Inspectorate for Emergency Situations, Ministry of Finance).

The EIA procedure is triggered by the submission of the application for environmental agreement for all projects listed in Annex 1 and Annex 2 of GD no.445/2009.

During the screening stage it is decided which projects listed on Annex 2 are subject to the EIA, on a case-by-case examination, using the criteria listed in Annex 3 of GD 445/2009 (the mentioned criteria include the criteria listed in Annex III to the Espoo Convention).

The projects listed in Annex 1 are mandatory subject to the national EIA procedure (the projects listed in Annex I of the Espoo Convention are included in Annex 1 of the GD 445/2009), but these projects are not mandatory subject to the transboundary EIA procedure.

The Project Presentation Report is made available for public information - if the project is likely to have transboundary impact, this information is made available to the authorities and the public of the affected States.

The screening stage decision is made available to the public for comments. The environmental authorities have the possibility to re-examine the screening stage decision based on the public comments.

During the scoping stage the environmental authorities together with the authorities within the TRC draw up the check list for the scoping stage using the guidelines provided for by MO 863/2002.

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 public hearing is led by the competent environmental authority. 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.

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

The competent authority in charge with the transboundary EIA procedure is the MEF; if a developer has submitted an application to a local EPA for a project likely

to have a significant transboundary environmental impact, that EPA is obliged to inform the MEF in 15 days from the submission of the Project Presentation Report. The MEF accomplishes the notification step, according to the procedure provided for by the Espoo Convention. In doing that, the MEF uses the notification format approved by Decision I/4 of the the first MoP which can be found on the web page of the Espoo Convention. The notification format is sent by diplomatic means (Ministry of Foreign Affaires) to the potentially affected Party, accompanied by the Project Presentation Report in electronic format. Usually, a deadline of 4 weeks is given for response. If the potentially affected Party confirms its participation in the procedure and indicates its intention to participate in the scoping stage, Romania waits for the special input of that state to the ToR/checklist for the scoping stage based on which the EIA documentation is drawn up. Meanwhile, according to the national EIA procedure, the Project Presentation Report is made available for the public information and comments together with the announcement on the submission for an application for development consent/environmental agreement. The competent environmental authority calls for the members of the Technical Review Committee (TRC) to meet in order to draw up the checklist/guidance for the scoping stage. The checklist/guidance is agreed within the TRC. The proposals received from the potentially affected Parties are included, as such, within the checklist for the scoping stage. After the input of the potentially affected Parties, the scoping document (checklist/guidance) is transmitted to the developer in order to make him know what is expected from him when drawing up the EIA documentation. From this point, the national EIA procedure goes on, and after the EIA documentation is submitted to the environmental competent authority, the public announcement is made within national/local newspapers and on the developer's and environmental authority's web page. The public announcement makes known the fact that the EIA documentation and the project will be subject of a public hearing, the date and place of this hearing. The public debate is held after have passed at least 20 days since the announcement is published in the newspaper. Within this deadline the public may inform itself on the proposed project and may consult the EIA documentation; the public comments and opinions are received in writing during the 20 days and during the public hearing. The national EIA procedure provides for the evaluation of the public comments undertaken by the competent environmental authority, including those of the public of the affected Parties.

After the submission of the EIA documentation by the developer, MEWM sends the EIA documentation to the potentially affected Parties that already expressed their wish to be involved in the transboundary EIA procedure.

After the public hearing, the environmental competent authority accomplishes the quality review stage of the EIA documentation. The comments/opinions of the public and of the authorities of the potentially affected Parties are taken into account in issuing the "environmental agreement" that will be an integral part of the final decision which is in most cases the construction authorization. If the application of art. 5 of the Espoo Convention involves a longer period due to different issues under discussion, the issuing of the final decision is delayed until these consultations are finalized.

The final decision is translated in English by the central environmental authority and is transmitted to the potentially affected Parties along with the main reasons and considerations on which it was based. Art.7 of the Espoo Convention on post-project analysis is applied at the written request of a potentially affected Party with the approval of the national competent authorities.

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

The Ministry of Environment and Forests (MEF) is in charge with the notification of the potentially affected Parties. Also, MEF coordinates and applies the transboundary EIA procedure.

The notification, project presentation report and the EIA documentation are sent by the MEF to the potentially affected Parties.

The comments and opinions expressed by the potentially affected Parties are analyzed by the central and local environmental authorities including by the TRC at local/central level and are subject of the consultation between states, as appropriate, that are conducted by the MEF; in any case answers are elaborated and they are transmitted to the potentially affected states by the MEF .

The MEF is in charge with the transmittal of the final decision.

Any request for post-project analysis is transmitted to the developer by the MEF.

Any decision on post project analysis is transmitted to the potentially affected Parties by the MEF.

The Ministry of Foreign Affairs is also involved in the transmittal of the notification and the EIA documentation.

The authorities responsible for domestic EIA procedure are:

At the local level - the Environmental Protection Agency- there are 42 LEPA's at country level.

At the regional level - the Regional Environmental Protection Agency (REPA) - there are 8 REPAs according to our 8 development regions covering Romania's territory;

At the central level, the general competence belongs to the National Environmental Protection Agency (NEPA) with the exception of the projects for which the competence belongs to the MEF (e.g. nuclear power plant, quarries and opencast mining where the surface of the site exceeds 25 ha - for these two kind of projects the "environmental agreement is approved by Governmental Decision).

All these authorities apply the same national EIA procedure (Romania has a unitary procedure) for projects according to the competencies provided for by MO 135/76/84/1284/2010 (the competence is specified in art.6 of The annex of the specified ministerial order - Methodology of the application of the environmental impact assessment for private and public projects -).

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

NEPA is in charge with the development of a all EIA cases data base.

The new ministerial order no.135/76/84/1984 requires that the MEF be informed by every local environmental protection agency about any project that is incidental with the Espoo Convention.

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

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.

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

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

The Romanian transposing newest 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. "Large" and "major" may be thought as being as such if they meet the thresholds indicated in Annex 1 of the EIA Directive. Nevertheless, the significance of the possibly impact triggers the use of such an epithet.

6. *Please describe:*

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

All activities listed in Appendix I of the Espoo Convention are present in subsequent legislation, that is GD no.445/2009, and for such an activity the notification is compulsory if a significant transboundary effect is likely to be caused by that proposed activity. By Law no.22/2001 that ratified the Espoo Convention, the special provisions entitles the competent environmental authority to treat as such, any other project that may have transboundary environmental impact and is not listed in Annex I of the convention and consequently, to notify the potentially affected Parties. The significance criteria provided for by Annex 3 of GD 445/2009, as amended, (which transposes the Annex III of the EIA Directive and it also includes the criteria listed in Appendix III of the convention) are applied in conjunction with the location of the project (close to the frontier or to the international waters) to the "Espoo activities" ; these criteria help the environmental authorities to decide on the likelihood of a transboundary effect. The same procedure applies for a change to an activity.

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

The transboundary EIA cooperation takes place through the focal point and the point of contact. Usually the point of contact is the Director of the Regulatory Directorate within the central public environmental authority in Romania. The central public environmental authority in Romania is responsible for the application of the transboundary EIA procedure. All correspondence letters, including the EIA documentation used in the transboundary EIA procedures with neighbouring countries are translated in English.

In 2008, at the 4th Meeting of the Parties of the Espoo Convention, in Bucharest, a Multilateral Agreement for the implementation of the Espoo Convention between the states of SE Europe was signed. This new international instrument is not yet in force, being ratified only by Bulgaria and Montenegro until now. After entering into force, the multilateral agreement will enable the states of SE Europe to cooperate closely and in their advantage for the implementation of the Espoo Convention.

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

A change to an activity is considered " a major change" if, by applying the criteria provided for in Annex 3 of GD no.445/2009 it is possible that this change may have significant transboundary environmental impact.

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

See letter (a).

The screening stage is carried out by the competent environmental authority together with the TRC based on the criteria mentioned in Annex 3 of GD 445/2009, using the checklist for the screening stage provided for by MO 863/2002. The decision is taken by the competent environmental authority with the consultation of the TRC.

PUBLIC PARTICIPATION

7. *Does your country have its own definition of “the public” in national legislation, compared to article 1(x)? How does your country, together with the affected Party, ensure that the opportunity given to the public of the affected Party is equivalent to the one given to your country’s public as required in article 2, paragraph 6?*

The term "public", as defined in the Aarhus Convention, has been transposed in the Romanian legislation in the Environmental Protection Law nr.137/1995, republished, as amended by EGO no.91/2002, approved by Law no.294/2003 and recently in the Emergency Environmental Ordinance no.195/2005 on the environmental protection (EGO no.195/2005). The EGO no.195/2005 is in force since 29 January 2005 and repeals the precedent legislation mentioned. Then in 2008 was approved the new EGO no. 164 that amended the previous one. Currently, EGO no.164/2008 is under approval by law in Parliament.

The definition of "the public" is also present in the GD 878/2005 on public access to environmental information (which transposes Directive 2003/4/EC).

Both the Project Presentation Report and the EIA documentation are displayed on the website of the MEF 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. 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 that states.

Article 3

Notification

QUESTIONS TO PARTY OF ORIGIN

8. *Describe how your country determines when to send the notification to the affected Party, which is to occur “as early as possible and no later than when informing its own public”? At what stage in the EIA procedure does your country usually notify the affected Party (art. 3.1)*

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 announcement 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.

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

We consider that, by sending also the technical memorandum (Project Presentation Report) - which is supplementary to the requirements of art. 3 para 2 - we are in compliance, as well, with the requirements of art. 3 paragraph 5 letter (b) of the Convention.

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

Romania uses the notification form provided for by Decision I/4 and, as mentioned above, the notification is accompanied by the electronic format of the Project Presentation Report.

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

Based on the international experience in the field of transboundary EIA and as it is recommended in the international guidelines issued, the deadline indicated by Romania is 4 weeks from the receiving date of the notification form. If the affected Party does not comply with the indicated time frame, the Romanian authorities extend the period of response on its own initiative with at least 2 weeks. If an extension of a deadline is asked for, it is usually agreed by the Romanian authorities.

12. *Describe when your country provides relevant information regarding the EIA procedure and proposed activity and its possible significant adverse transboundary impact as referred to in article 3, paragraph 5. Already with the notification, or later in the procedure?*

We provide this information in the notification form, which is usually accompanied by the electronic format of the Project Presentation Report.

13. *How does your country determine whether it should request information from the affected Party (art. 3.6)? When does your country normally request information from the affected Party? What kind of information does your country normally request? How does your*

country determine the time frame for a response from the affected Party to a request for information, which should be “prompt” (art. 3.6)?

The information needed is usually used in drawing up the EIA documentation. It is used and determined by the certified person employed by the developer for the EIA documentation. The request of information is made by the Romanian MEF, at the request of the developer, if needed, during the scoping stage.

14. Please describe:

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

The cooperation with the authorities of the affected Party is realized through letters. The affected Party identifies its own public potentially affected. The affected Party may indicate, by letters, that a public hearing is needed for its own potentially affected public, so the Party of origin is expected to participate at such hearing, to present the project, the EIA documentation, the measures envisaged to be taken in order to mitigate or offset the impact and to answer the public questions. 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 MEF 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).

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

The most affected public is the public resident within the most probably affected area of the project, or the public within the affected area indicated by the dispersion model used in the project. The identification of the public takes also into consideration the public that declares itself "concerned public".

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

The public of the affected party is notified according to the legal requirements of the affected country (as the affected country itself is making the announcements at the kindly request of the party of origin); it is usually made by public announcements in the local newspapers and on the web site of the public environmental authorities of the affected regions.

The content of the public notification is decided by the affected party based on the information received in the notification and it must be at least, on the following:

- the request on development consent/environmental agreement;
- name and location of the project;
- name of the developer;
- where and until when the information on the project may be consulted;

Usually, the notification itself is made publicly available if this is made in the format approved by Decision I/IV.

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

the notification of the affected country has the content approved by Decision I/IV. The notification of our public is made when at the moment when the application for the environmental agreement is submitted together with the Project Presentation Report. The content of this first public announcement is provided by the new legislation in force (MO 135/76/84/1284/2010) and is mentioned above at letter c. we notify an affected party as soon as we are submitted a request for development consent/environmental agreement for a project which may have effects on other country's environment.

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

The notifications sent by diplomatic channels, have been signed by the environmental minister/state secretary, but the contact point was mentioned in the cc. One notification was directly sent to the contact point listed on the Convention website.

QUESTIONS TO AFFECTED PARTY

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

The decision belongs to the central environmental authority. In the decision-making process there are involved the local competent authorities, such as LEPA, and authorities with specific responsibilities in certain fields, depending on the type of the proposed activity. The decision-making process is based on the certain criteria, such as: location of the project in respect to the Romanian border, the vicinity to an international water, the type of the proposed activity, if the respective activity is listed in Appendix I to the Espoo Convention, the potential significant impacts on protected areas, species and habitats and on human health.

After the receipt of the notification, MEF informs other authorities involved in the decision-making process. Based on the opinions received and using the mentioned criteria, the MEF takes the decision on the participation to the transboundary EIA procedure and sends it to the Party of origin.

17. *When the Party of origin requests your country to provide information relating to the potentially affected environment, how does your country determine what is "reasonably*

obtainable” information to include in its response? Describe the procedures and, where appropriate, the legislation your country that would apply in determining the meaning of “promptly” in the context of responding to a request for information (art. 3.6)

(a) The reasonably obtainable information is the environmental information which is in the possession of the environmental authorities. Usually this information is contained in the State of the Environment report which is publicly accessible and the type of information that is general disseminated by the environmental authorities, as required by Aarhus Convention. The scientific published information is also reasonably to be given, indicating books, magazines and other means of information (even presentations in power point published on web sites of the environmental authorities). Pending of the type of information needed, the MEF may offer the information held by the research institutes subordinated to the MEF.

(b) When the required information is not held by the MEF, the received request is sent to other environmental authorities and institutions which may have the required information. After compiling the information, the answer is sent to the Party of origin. In implementation of the Aarhus Convention Romania considers to be "promptly" any answer that is sent within a time-frame of 1 month from the the receiving date of the request.

18. Please describe:

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

The Romanian central environmental authority (MEF) is conducting the process of Romanian public participation to the notified projects of other countries. The process is agreed through correspondence letters with the party of origin taking into account the modalities of public participation and the duration of this process. We usually agree on a public hearing to be held on the Romanian territory in the area of the affected public, the costs for the venue of the public hearing are beard by the Romanian party, the translation is ensured by us as well. The publicity of the hearing is also beard by the Romanian local authorities. The party of origin is invited to the public hearing to make a presentation of the project and of the EIA documentation and to respond to the questions of the Romanian public.

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

The public resident in the most probably affected area and the public that called itself "concerned public" if it can be determined that it is likely to be affected by the project.

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

The public is informed by press release of the MEF/local environmental authority, by public notice posted at the headquarters of the environmental authority and at the headquarters of the mayoralty and /or published in the local newspaper. The notification itself is made public posted on the website of MEF accompanied by a public announcement and a deadline by which the Romanian public may send comments on the received notification (e.g. Kozoldui radioactive waste disposal facility).

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

We notify our public as soon as an application for environmental agreement is submitted.

Article 4

Preparation of the environmental impact assessment documentation

QUESTIONS TO PARTY OF ORIGIN

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

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. In order to smooth the implementation of these requirements, the MEF 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.

This order is meant to implement also the transboundary requirements of the EIA Directives which have been transposed by the GD no.445/2009.

The content of the EIA documentation as required by the Espoo Convention is compulsory for the developer and it is specified within national implementation legislation, namely Law 22/2001. Annex 4 of GD no.445/2009 transposes the content of the Annex 4 of the EIA Directive and is compulsory. 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.

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

Besides the above mentioned provisions on the content of the EIA documentation, during the scoping stage are identified or emphasised certain/specific requirements that have to be included in the EIA documentation.

In this respect, the competent environmental authority together with the TRC fills in the checklist for the scoping stage. This checklist together with the proposals of the affected Party is sent to the developer. The developer is required to draw up the EIA documentation according to the provisions of Law 22/2001, Annex 4 of GD no 445/2009, MO 863/2002, based on the checklist for the scoping stage to which the proposals/questions of the affected Party are attached.

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

The identification of the "reasonable alternatives" is realized by the certified person who draws up the EIA documentation, based on the provisions stipulated in Part I of Annex 2- Metodological guideline for the scoping stage of 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.

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

The identification of "the environment that is likely to be affected by the proposed activity and its alternatives" and of the definition of the "impact" are realized using the checklist for the scoping stage and are developed within the EIA documentation.

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

The EIA documentation is entirely available; when the EIA documentation contains confidential information (e.g. certain information on commercial and industrial aspects or intellectual property rights) according to the Aarhus Convention, the confidential parts are not available.

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

The EIA documentation is sent, in electronic format most of the times (on CDs) and translated in English, to the affected party directly or, in certain cases through diplomatic channels. The EIA documentation is made publicly available by the affected party and the received comments of the affected Party are compiled by the environmental authority of the affected party and sent to the party of origin in table format in which there are also mentioned the names and addresses of the persons; this table is completed with the answers for every question/comment indicated in the table. This table is sent to the affected Party by the Romanian central environmental authority (MEF).

The answers are provided by the developer, environmental authority and other authorities (TRC) involved in the EIA procedure. On certain issues which indicate major concern of the affected party, the Romanian central environmental authority (MEF) decide measures which will be provided in the environmental agreement and consequently in the development consent (construction authorization).

25. *Describe the procedures and, where appropriate, the legislation that define the time frame for comments provided “within a reasonable time before the final decision” (art. 4.2)? What is the consequence if the affected Party does not comply with the time frame? If an affected Party asks for an extension of a deadline, how does your country react?*

MO 864/2002, as amended, provides for a deadline for receiving the public comments. Usually, Romania requests that the comments of the affected party to be sent within two months from the receiving date of the EIA documentation. If the affected Party does not comply with the time frame without asking for an extension, it is considered that there are no comments. When the affected Party asks for an extension of the deadline, Romania extends that period, requiring that the proposed date for authorization not to be exceeded. Even so, it happened that the proposed date was exceeded but the compliance with the requirements of the Convention was considered a priority.

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

Prior to the EIA documentation, the Technical Memorandum (Project Presentation Report) is sent, in electronic format, to the affected Party, simultaneously with the notification. The EIA documentation has been also sent on paper and in electronic format to the affected Party. Lately, mostly in electronic format.

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

The national EIA procedure provides for a compulsory public hearing on the project and on the EIA documentation during the EIA quality review stage. The public hearing is open to

anybody and is announced by public announcement in national/local newspapers and on the competent environmental authority's web page with at least 20 days before the date of the hearing (provided by the MO 135/76/84/1284/2010).

The national legislation does not prohibit the participation of the public or of the authorities of the affected Party.

The Romanian environmental authorities are open to any request of participation to a public hearing organized on the territory of the affected Party. The Romanian authorities agree to participate in a public hearing organized on the territory of the affected party, if such a party makes this request (e.g., Hungary).

QUESTIONS TO AFFECTED PARTY

28. *Describe the procedures and, where appropriate, the legislation your country would apply to determine the meaning of the words “within a reasonable time before the final decision”, this being the time frame for comments (art. 4.2)?*

There is no special procedure to determine the meaning of the words "within a reasonable time before the final decision". Usually, Romania tries to respect the deadline imposed by the Party of origin. In case that it is not possible, Romania requests a prolongation of the deadline.

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

After receiving the EIA documentation from the party of origin, Romania displays it on the web site of the central and local environmental authorities and makes a press release and a public notice in the local newspaper. The public is invited to make comments and express opinions. If the documentation is on paper as well, this is made available to the public at the headquarters of the local environmental authority situated in the probably affected area. All comments received are centralized by the Romanian central environmental authority and are sent by the MEF to the central environmental authority of the party of origin.

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

The public participation in the affected Party is the responsibility of the environmental authorities of the affected Party, with the cooperation of the local authorities. Normally, the public participation is organized according to the legislation of the affected Party. The date of the public debate and some arrangements regarding the presentations of the Party of origin are established by correspondence letters between the concerned Parties.

Any other problem that may arise in relation to the public participation in the affected Party is solved by common agreement (ad hoc procedures).

For the period 2003-2005 Romania had no bilateral or multilateral agreement for the implementation of the Espoo Convention. The Multilateral Agreement for the states of the SE Europe signed in 2008 during the 4th Meeting of the Parties is not yet in force.

Article 5

Consultations

QUESTIONS TO PARTY OF ORIGIN

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

The national EIA legislation (MO 864/2002) provides for consultation starting with the scoping stage. In this respect, the authorities and the public of the affected Party are entitled to send comments and opinions to be included in the terms of reference (checklist) for the scoping stage. The competent environmental authority has the obligation to include these comments and opinions in the checklist for the scoping stage that is transmitted to the developer.

In this respect, the national legislation provides for a broader consultation prior to the transmittal of the EIA documentation.

After the EIA documentation is finalized, it is sent to the affected Party in order to make comments and opinions. The EIA documentation is sent, in English, both in electronic and written format for a proper dissemination.

The consultations may concern any issue related to the EIA documentation, including those mentioned in art.5 let. a) - c).

The developer has the obligation to submit the EIA documentation both in Romanian and in English and the environmental authorities have the obligation to send the EIA documentation, to affected Party, as soon as possible.

According to MO 864/2002, the comments and opinions of the affected Party must be received in a deadline of 2 months from the receiving date of the EIA documentation.

If no comments or opinions are received during the mentioned deadline, it is considered that the affected Party is pleased by the measures envisaged in the EIA documentation.

However, Romania usually sends a last letter asking for a written answer on the final position of the affected Party.

The consultations under art.5 of the Convention take place after the EIA documentation is ready and already sent to the affected party. Romania, as a party of origin asks the involved parties, formally, for consultations under art.5 of the Convention. These consultations are undertaken by the national authorities of the parties involved in the procedure and are agreed before the meeting itself. National research institutes take part in the consultations, including the developer. On the experience gained until now we can say that the consultations meetings are undertaken 1 or 2 days and are finished with a "minute" in which the parties stipulate how and when the consultations are considered finished (e.g., only after the party of origin sends the last information required during the meeting). In fortunate cases the consultations are finished during 1 meeting.

Not to carry out consultations was not the case until now. If there seems to be no need of consultations the involved parties express it in the correspondence letters sent to each other.

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

When we speak about consultations based on art5 of the Convention, we speak about organizing a meeting in the country of origin of the project. The meeting is intended to give opportunity to the affected party to ask questions on the EIA documentation and on features of the project in order to remove any doubt on the effects of the project. Usually, the consultations are arranged at national level and it implies at least the participation of the central environmental authorities (MEF) and the developer and, on case by case basis, other authorities. The consultations may be organized at local level as well, but with the participation and involvement of the personnel of the central environmental authorities. The environmental authorities have the responsibility to keep in contact with the affected Party and, as appropriate, to organize consultation (to set up the date and place, to ensure the translation and presentations).

In some cases, the consultations may be realized by exchange of letters, if parties agree on this manner.

QUESTIONS TO AFFECTED PARTY

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

Usually, the consultations are arranged at national level and it implies the participation of the environmental authorities and other concerned authorities (e.g.: local public authorities, local environmental authority). EIA Experts/specialists together with public servants in charge with water management, waste management, nature protection etc., participate to the consultations. During consultation both means are used : written communications and meetings, as appropriate. If there is no need for consultations we indicate it by letter, but it never happened until now.

Article 6

Final decision

QUESTIONS TO PARTY OF ORIGIN

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

According to the new EIA legislation in force (GD no.445/2009) the "final decision" is the development consent which in most cases is the construction authorization issued by the local public authorities. For activities listed in Appendix I of the Convention, items 1-16 Romania issues " autorizatie de construire" as the final decision. For the activity listed under item 17, Romania issues either a decision of the head of the Territorial Inspectorate for Forestry and Hunting or a Ministerial Order of MEF, pending on the size of the deforested area.

In the Romanian legislation, the "environmental agreement" is an integral part of the development consent (construction authorization) which is issued for the projects which are subject to the EIA procedure according to the GD 445/2009 (which transposes EIA Directives).

All projects listed in Appendix I of the Espoo Convention require such a decision (are subject of the national EIA procedure), but pending on e.g. the location of the project and on the potentially transboundary significant impact not all projects are subject to the Espoo procedure.

More, all projects listed in Annex 1 of the EIA Directive (85/337/EEC, as amended by 97/11/EC and by 2003/35/EC) require such a decision (are subject of the national EIA procedure).

The environmental agreement is needed by the developer to obtain the construction authorization. After being in possession of the construction authorization to which the environmental agreement is attached, the developer is enabled to start the project.

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

The national legislation on construction stipulates the obligation that all projects must be analyzed by the environmental authorities in order to decide whether a particular project needs an environmental agreement.

The national EIA legislation provides for development consent for projects: a) projects that are subject of the EIA procedure and for which the construction authorization or other form of development consent is based on the environmental agreement, and b) projects that are not subject to the EIA procedure, for which the construction authorization or other form of development consent is not based on environmental agreement;

The construction authorization contains the conditions stipulated in the environmental agreement - it means that the construction authorization is conditioned by the environmental agreement's provisions. The EIA procedure and its outcome are taken over into the decision-making process for the proposed activity when issuing the development consent based on the environmental agreement.

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

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 decision and previously the environmental agreement take 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 might be included in the environmental agreement and thus in the final decision, after the evaluation of all received comments.

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

After the environmental agreement is issued, then the development consent is issued. The final decision is transmitted to the affected Party, in English. According to the MO 864/2002, the environmental agreement contains the reasons and considerations on which is based. So the affected party receives the content of the decision and any conditions attached to it, including the description, as appropriate, of the main measures to reduce, avoid and, if possible, to eliminate the significant adverse effects.

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

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

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

The decision on requesting a post-project analysis is based on the following reasons: the type of the activity, the technology used in development of the activity, the risk of significant adverse impacts, the location to the Romanian border. These reasons are not exhaustive.

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

The post project analysis is applied at the request of the affected Party and the result of such an analysis is always brought to the attention of the affected Party. A permanent monitoring system is used in order to determine any adverse negative effect on the environment. 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

41. *Does your country have any bilateral or multilateral agreements based on the Convention (art. 8, appendix VI)? If so, list them. Briefly describe the nature of these agreements. To what extent are these agreements based on appendix VI and what issues do they cover? If publicly available, also attach the texts of such bilateral and multilateral agreements, preferably in English, French or Russian.*

Currently, Romania has no bilateral agreement based on EIA Convention. A multilateral agreement among the countries of South-East Europe for implementation of the Espoo Convention was signed in 2008 during the fourth meeting of the Parties to the United Nations Economic Commission for Europe (UNECE) Convention on Environmental Impact Assessment in a Transboundary Context, 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.

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

No.

Article 9

Research programmes

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

Generally reasearch studies are undergoing within national researce institutes for monitoring and assessment of impacts in the Danube Delta.

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

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

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

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

Romania has not yet ratified the second amendment. No precise date is forseen.

46. *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.no. 787/2009.

PART TWO – PRACTICAL APPLICATION DURING THE PERIOD 2006–2009

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

CASES DURING THE PERIOD 2006–2009

47. *Does your country's national administration have information on the transboundary EIA procedures that were under way during the period? If so, please list these procedures,*

clearly identifying for each whether your country was the Party of origin or the affected Party. If your country does not have any experience of applying the Convention, why not?

Romania as a Party of Origin:

- a) The transboundary EIA procedure for Nuclear Power Plant Cernvoda, units 3 and 4, where Romania is a party of origin, started in August 2006, 2 public hearings were held in Bulgaria (Silistra and Dobrich) and is still under the procedure, the final decision is not yet issued.
- b) The transboundary EIA procedure for "Technical Assistance for improving the navigations conditions on the Romanian-Bulgarian common sector of Danube and adjacent studies". The project is jointly promoted by Romania and Bulgaria, as Parties of origin. The following parties have been notified in December 2008: Serbia, Ukraine, Moldavia. Serbia and Ukraine are participants in the procedure. The EIA documentation has not been submitted by the developer.
- c) The transboundary EIA procedure for Rosia Montana mining project, where Romania is a party of origin, started in 2004, stopped in 2007 due to challenging of an administrative act in court. A new administrative act has been obtained and submitted by the developer in 2010.
- d) The transboundary EIA procedure for the mining project of gold-silver and other polymetallic ore in Certej. Hungary and Serbia were notified in September 2009 and participated in the scoping of this project. The EIA documentation has not been submitted yet.
- e) The transboundary EIA procedure for an incinerator in Radauti, notified Ukraine in May 2009, the EIA documentation submitted to Ukraine in January 2010, Romania received comments and opinions on it and these were submitted to the developer for consideration.
- d) The transboundary EIA procedure for the "Termo power station 800 MW" in Galati, notified Ukraine in July 2009 and participated in the scoping stage of the procedure, EIA documentation is under development.
- e) The transboundary EIA procedure for "Electrical Power Plant 400 MW" in Tulcea, notified Ukraine and participated in the scoping stage of the procedure, EIA documentation is under development.

Romania, as an Affected Party:

- a) The transboundary EIA procedure for Giurgiulesti Port, Romania was notified by Moldova in November 2006, received the EIA documentation in October 2007, October 2007-December 2008 change of letters with Moldova on the quality of the EIA documentation, received in December 2008 a letter concerning the final decision for this project.
- b) The transboundary EIA procedure for "Kozlodui Radioactive Waste Disposal Facility" in Bulgaria, Romania was notified in September 2009, participated in the scoping stage and is waiting for the EIA documentation.
- c) The transboundary EIA procedure for Bastroe project- second phase, Romania was notified in September 2008, received the EIA documentation in January 2009 and received the Final Decision in February 2010.

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

Yes.

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

No.

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

Average duration: 37 weeks without counting the necessary time to develop the EIA documentation.

Individual steps duration:

- a) notification stage -4 weeks and extension to 8 weeks
- b) information of the public on the received notification - 2 weeks;
- c) comments on notification - 6 weeks from the receiving date of the notification;
- b) scoping stage- 8 weeks;
- c) preparation of the EIA documentation- no deadline within the Romanian legislation;
- d) response to the EIA documentation received from a party of origin- 8 weeks;
- d) information on the public hearing of the EIA documentation and project- at least 20 days
- e) consultations based on art.5 of the Convention - duration varies from case to case- can be 8 weeks;

EXPERIENCE OF THE TRANSBOUNDARY ENVIRONMENTAL IMPACT ASSESSMENT PROCEDURE IN 2006–2009

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

In the Cernavoda NPP units 3 and 4 case, for which we applied the whole procedure foreseen by the Convention, we mention the application of art.5 of the Convention with Austria, country which made a site visit to the nuclear power plant location and to the command room of the existing units 1 and 2. These steps supported the prevention and control of possible significant transboundary impacts. Bulgaria acted also as an affected party within the Romanian transboundary EIA procedure for the Cernavoda NPP and 2 public hearings were held by Romania on the Bulgarian territory for the Bulgarian public and authorities, at Silistra and Dobrich.

In the Bastroe case, the implementation of a Romanian - Ukrainian monitoring programme will probably contribute to the control and consequently to the reduction of the detected significant transboundary impacts.

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

For the meaning of particular terms we try to documentate by using internet information on the matter in question, or using the guidelines issued or checking other countries legislation which is translated in English and posted on the ministries web page, or even launching questions from focal point to focal point on e-mail.

Major change as indicated by art.1 (v) is considered in the meaning of the EIA Directive: the modification in itself meets the thresholds set out in Annex I of the EIA Directive or any other modification likely to have a significant adverse impact. The major change is "major" if the impact is likely to be significant even if the modification of the activity is small, the

criteria set out in Annex III of the EIA Directive are used to establish the significance of the impact.

A reasonable time as indicated by art.3.2 (c) is always 4 weeks; at the request of the affected party we usually extend it (e.g.; recently, Hungary asked an extension for answering to a notification received from Romania in 2010).

Promptly as requested by art.3.6 was interpreted by Romania, for example in the Bastroe case, as soon as we received from Ukraine an indication for such a demand. The information was forwarded by Romania in aprox.6 weeks.

A reasonable time frame as requested by art.5 may be different from case to case, pending on the answers offered by the party of origin. Sometimes the "answers" may be under the form of new studies that are time consuming (case of Rosia Montana project).

Examples of reasonable time frames: 1 month.

Happy cases: 1 day consultations.

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

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

In the case of District Power Heating Project, in Oradea, the distance from the border to Hungary was definitory to decide on the notification. The dispersion model is going to be elaborated within the EIA documentation and the issue of the transboundary air impact will be discussed within the EIA edure with Hungary.

In Rosia Montana project, the decision for notification was taken based on project characteristics and periculosity. In one case the decision for notification was based on the request of a country (Slovakia) which afterwards did not participate in the Espoo procedure.

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

According to the legislation in force, MO 863/2002, the recommended content of the EIA documentation provides for transboundary issues to be elaborated for each environmental element/factor. The scoping phase determines how much information to be included in the EIA documentation and this means that an affected party can participate and ask which information to be included in the EIA documentation (e.g., Hungary participated in the scoping for the Rosia Montana project).

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

Mostly we use impact prediction methods.

- d. *Translation is not addressed in the Convention. How has your country addressed the question of translation? What does your country usually translate? What difficulties has your country experienced relating to translation and interpretation, and what solutions has your country applied?;*

As requested by the Romanian legislation in force, the EIA documentation is translated in English by the proponent. For the Rosia Montana project the proponent

translated, as well, the non-technical summary in Hungarian. We usually translate the whole EIA documentation and the Technical Presentation Report of the project which accompanies the notification format. The translation in English is usually accepted easily by the administration of the affected country but in order to be available for the affected public it has to be translated in the national language.

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

Organization of the transboundary public participation is always made with the support of the affected party. Good practice is easily to be evoked between Romania and Bulgaria, or Romania and Hungary. The affected countries ensured the venue of the public hearing, informed the affected public, made available for them the EIA documentation and the Technical presentation report of the project, invited the public to the public hearing, ensured as well, a translator during the public hearing. As mentioned before, Romania ensured the translation of the EIA documentation and of the Technical Presentation Report and participated to the public hearing with the representatives of the environmental authorities in charge with the project, representatives of the MEF in charge with the transboundary EIA procedure, own translator, the developer and the EIA team and made presentations of the project and on the EIA documentation. The Romanian participants answered all questions raised during the public hearing. We are not aware of any complaints from the affected public.

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

During consultations kept under art.5 of the Convention it is usually asked an extension of the period until all requested information during these consultations is completed by the developer and sent to the affected Party. As a difficulty we mention the fact that the involved countries may agree that within the bilateral meeting the oral phase of the transboundary consultation may be considered completed, according to the Espoo Convention. Nevertheless, a written phase will be undertaken later on, for example the affected party will forward a list of documentation which is needed for the clarification of certain issues. Afterwards a change of views may be envisaged on the documentation and on the explanations offered by the party of origin and how this was considered during the process. In case of Romania as an affected party, we consider that in order to apply properly art.5 and to prevent, reduce and control the possible significant transboundary impacts of a certain project the party of origin has to be open to discussions and to submit a clear documentation.

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

The final decision - environmental agreement- is written in Romanian only after the EIA procedure is completed, including the transboundary aspects of the procedure; the final decision is signed by the head of the environmental authority that developed

the EIA procedure and it is translated in English for being transmitted to the affected Party that took part in the procedure. The final decision is communicated to the central environmental authority of the affected party which will make it available for its own public. The Final decision is communicated to the developer in written form and contains the following items: I. Description of the project; II. Reasons and considerations for issuing the final decision; III. Measures for preventing, reduction and off set the adverse significant environmental effects; IV. Conditions that must be observed during the construction, operation and closure phase of the project; V. Information on public participation procedure and on public rights concerning access to justice in relation to the procedure and the administrative act issued.

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

Romania and Bulgaria agreed to carry out post project analysis for Cernavoda Nuclear Power Plant and for Belene Nuclear Power Plant. A permanent monitoring of the radioactivity level in the surroundings of Cernavoda NPP takes place in order to be detected any alarm level and to inform the Bulgarian neighbours.

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

Romania and Bulgaria had a joint project called the Calafat Vidin Bridge over Danube. A joint EIA documentation was elaborated in English, Romanian and Bulgarian.

As institutional arrangements we can mention that in June 2000, the two countries signed an agreement on the project's technical, financial, legal and organizational aspects. The agreement was ratified by the Parliaments of both countries and entered into force in April 2001. The bilateral agreement specified that an environmental impact assessment (EIA) should be carried out jointly, taking into account Bulgarian, Romanian and European Union legis-lation. Both countries were Parties to the Espoo Convention on EIA in a Transboundary Context.

The agreement established a Joint Committee to oversee the project, chaired by the two countries' deputy transport ministers and including representatives of their environment ministries. Nine working groups also were established at the expert level. One of them – the environmental Joint Working Group (JWG) No. 2 – dealt with environmental matters and coordinated environmental procedures. The JWG met on many occasions to resolve procedural difficulties. In addition, Project Implementation and Management Units (PIMUs) were established within each of the two countries competent authorities – the Romanian Ministry of Transport Construction and Tourism and the Bulgarian Ministry of Transport and Communications.

Experts from an international consulting company led the EIA team, which also included local consultants from Bulgaria and Romania. The local experts were licensed or registered as is required by Bulgarian and Romanian legislation. To develop a joint EIA had been decided in the bilateral agreement. The joint EIA team prepared the EIA documentation and the PIMUs provided full translation into

Bulgarian, Romanian and English (20 copies of each), with the PIMUs covering these costs. The preliminary EIA was completed in August 2001.

Romania notified its own public right at the start of the EIA process, using the following methods: local and national newspaper, post to the local public authorities or displayed on web-pages of environmental authorities and developer's. We also notified the public about the possibility to consult the final EIA documentation and the project proposal and to participate in the public hearing that took place in December 2004.

Another joint project for Romania and Bulgaria is the project related to navigation on the Danube River, named "Technical assistance for the improvement of navigation conditions on the Romanian-Bulgarian common sector of the Danube and accompanying studies" (the project). The Danube River is an important water fairway and is also part of Trans European Corridor VII and of the TEN-T network. The Romanian National Environment Protection Agency has received on 12th November 2008, the request for issuing the environmental agreement for the Project and notified the Ministry of Environment about a possible application of the Espoo Convention.

After receiving the official documentation of the Project, the Ministry of Environment together with the Ministry of Transport organized a Romanian – Bulgarian meeting during which both countries decided that it falls under the scope of the Espoo Convention and consequently, decided the appliance of the Convention. The Project consists in the following sections:

a. Section I: Iron Gate II (rkm 863) to Calarasi (Silistra in Bulgaria) (rkm 375), because previous studies have identified a number of specific navigational constraints.

b. Section II: The harbour of Tulcea sector between (nm43) Ceatal Ismail – Braila to Ceatal Sf. Gheorghe – Sulina Channel (nm34), because navigation conditions are hampered by sedimentation of the harbor and the existing curve (R=700m) which limits navigation width;

The two sections of the Project are differentiated by the area in which the project will be implemented, the first one is located on the common sector Romanian-Bulgarian of the Danube, and the second one is in the Romanian area of the Tulcea harbour. Taking into account that these sections are interlinked aiming the same important river, there will be only one transboundary environmental impact procedure approached in a holistically manner. The EIA documentation will analyze the cumulative impact of the 2 sections, the effects of section I on section II, etc. Parties of origin and affected parties for the Project are: Romania and Bulgaria, as the Project envisages work on both banks of the river (Romanian and Bulgarian bank), possibly affected being also Serbia, Ukraine and Republic of Moldova. All neighbour riverian states have been notified, in accordance with the Espoo Convention, namely Serbia, Republic of Moldavia and Ukraine, by the Romanian Ministry of Foreign Affairs through Note Verbal nr.H2-1/3415 on 15.12.2008. This Note Verbal was accompanied by a letter signed by the Romanian minister of environment addressed to each of the other three ministries.

The notifications, written in English, were transmitted together with the Project Presentation Report, to all the ministers of environment from the aforementioned states. They were informed with technical data regarding the two sections of the Project which may have a possible transboundary impact. Also, it was requested to all notified states to provide information regarding the possible affected environment by the Project, activities undertaken in the present in the possible affected area,

including public participation requirements, in the format provided by Decision I/IV of the Espoo Parties.

Following the notification, Romania has received from Ukraine, on 13.01.2009, the intention to participate in this procedure accompanied by a request to delay their reply on the possible affected environment, which was granted.

Romanian authorities kept a close contact with the Central Authority for Environmental Protection and Water from Republic of Bulgaria in order to apply the transboundary environmental impact assessment procedure. Bulgaria has been officially informed about this project through a letter signed by the Minister of Transport of Romania, as project owner. As a result, Bulgaria was involved in the procedure, participated in several working meetings held on both sides of the Danube in order to establish and clarify the procedural steps to be followed. The Romanian authorities for environmental protection developed the ToR for the EIA and then transmitted them to Bulgaria for comments and opinions and improvements. The ToR were sent to the other 3 countries.

Bulgaria has completed the procedure for notification of local authorities, were identified municipalities and local authorities to be informed of the ToR and which will consult the public. For this purpose, municipalities and local authorities were required to distribute information to the public.

Consultation in each of the countries participating in transboundary procedure will be done with the support and involvement of environmental authorities in those countries.

For this project a sub-working group has been established as well, to monitor transport and environment projects funded by the Cohesion Fund (ex-ISPA), which had at its meeting so far, representatives of DG REGIO, DG TREN, DG Environment, Witteveen-Bos, Via Donau, ICPDR, JASPERS, Technum - Trapec - Tractebel - CNR - Sefage, Ministry of Environment, Ministry of Finance, Ministry of Environment and Water of Bulgaria, Russe AppData, the National Agency for Environmental Protection, Ministry of Transport, Administration of Lower Danube River Galati, SC Trapec SA, Romanian Waters National Administration, ICIM Bucharest, Faculty of Hydrotechnics. At this level there were clarified specific ad technical issues at local, national and international level.

The procedure is still not finished, the developer is waited to submit the EIA documentation.

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

Good public participation in Rosia Montana project: 14 public hearings in Romania and 2 public hearings in Hungary.

Good cooperation between the environmental authorities of Romania, Bulgaria and Austria within the transboundary EIA procedure for Cernavoda NPP.

A case study fact sheet is not of interest for the moment.

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

The most common means used is through focal points. By entering into force the "Multilateral Agreement for the SE Europe Countries" we will gain experience in

applying the Convention by this means. Joint bodies are settled only if they are asked for in the special bilateral agreement/memorandum.

CO-OPERATION BETWEEN PARTIES IN 2006–2009

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

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; it was overcome through the Espoo Convention mechanisms. Romania has had a successful cooperation in the application of the Espoo Convention with Bulgaria, any difficulty was overcome by mutual understanding supported by the same national legislation transposing the EU requirements.

EXPERIENCE IN USING THE GUIDANCE IN 2006–2009

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

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

Romania contributed with a fact sheet to the elaboration of this guidance; Romania consulted the guidance during the application of procedures seeking examples of how the public was involved in other countries procedures.

b. *Guidance on subregional cooperation;*

Not used yet.

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

This guidance has been used in the development of the Multilateral Agreement for the Implementation of the Espoo Convention in SE European Countries.

CLARITY OF THE CONVENTION

56. *Has your country had difficulties implementing the procedure defined in the Convention, either as Party of origin or as affected Party? Are there provisions in the Convention that are unclear? Describe the transboundary EIA procedure as applied in practice, where this has varied from that described in part one above or in the Convention. Also describe in general the strengths and weaknesses of your country's implementation of the Convention's transboundary EIA procedure, which your country encounters when applying the Convention.*

Romania encountered difficulties in implementing the procedure of the Convention as an affected party, in the Bastroe case. The implementation of art.5 provisions were understood differently by the Romanian and Ukrainian authorities. The Ukrainian authorities were of the opinion that any presentation of the project within any round tables, conferences, meetings between researchers etc., could be thought as consultations under art.5. During a bilateral meeting this aspect has been clarified and the party of origin of the Bastroe project formally required consultations with the Romanian environmental authorities.

The provisions of the Convention are clearly explained within the Guidelines for the implementation of the Espoo Convention.

When applying the implementation of the Convention we have noticed that Romania has made much more notifications than has received from the neighbouring countries.

AWARENESS OF THE CONVENTION

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

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, Belene NPP, Kozlodui radioactive waste disposal, Bastroe project, Rosia Montana project. The central environmental authority made presentations of the Convention in NGOs environment and posted on the website of the MEF a description of the Convention's possibilities to support the involvement of NGOs.

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

Romania always tries to apply the Convention in a constant manner.

SUGGESTED IMPROVEMENTS TO THE REPORT

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

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