

## Report on Greece

### Impact Assessments - Preventive Measures against Significant Environmental Impacts in the 21<sup>st</sup> Century

1. How is the EIA Directive (Directive 2011/92/EU) transposed in your country? Please provide a list of your national pieces of legislation transposing the EIA Directive.

The spirit of the EIA Directive is transposed in the national legislation with Law 4014/2011 (published in the National Gazette in Part A-209/21.09.2011), regarding development consent of projects and activities.

2. Are the EIA Directive and the IPPC Directive<sup>i</sup> transposed in your country through the same legislation?

The EIA and the IPPC Directives have also been transposed in the national legislation with Law 4014/2011.

3. What procedure is set up to determine whether a project (listed in Annex II) shall be made subject to an assessment, case by case examination, thresholds or criteria or a combination of these procedures?

Projects listed in Annex II are subject to Standard Environmental Commitments (SEC) as described in the provisions of Law 4014/2011, and therefore joint ministerial decisions are issued.

4. Is the environmental impact assessment procedure considered in a separate administrative procedure (e.g. - different from the development consent procedure) by the competent authority? If yes, please provide a short description of the applicable arrangements for the implementation of the Directive (including what administrative act is considered a development consent).

The environmental impact assessment procedure is considered as a separate procedure, which is regulated by Law 4014/2011. Regarding the materialization of new Class A projects or activities [that is, projects with significant impact on the environment which require an Environmental Impact Study (EIS)], both the Environmental Impact Study (EIS) and the issuance of a Decision on the Approval of Environmental Impact Assessment (i.e. development consent) are required. The Decision on the Approval of Environmental Impact Assessment has a time-limit of ten years, if there is no change of the conditions under which it was issued. For any new project, it is always required to have the consultation of the Ministry of Tourism and Culture on whether the area is of archaeological interest.

5. Is the EIA process part of a permitting procedure in your legal system? How are the results of the consultations with environmental authorities and the public and environmental information taken into consideration in the development consent procedure? To what extent does an EIA influence the final decision, i.e. its approval or refusal and attached conditions?

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Only certain projects, such as public roadworks and public projects, do not require a development consent. Whilst in power and industrial projects it is obligatory.

Environmental conditions are taken into account as well. The Approval of Environmental Impact Assessment is very important, because in case it is refused, then it is not possible to issue a Development Consent Decision.

6. In case of a multi-stage development consent procedure (e.g. combination of several distinct decisions), at what stage does the environmental impact assessment procedure take place during the development consent procedure in your country?

The multi-stage consent procedure of Greece consists of the Approval of Environmental Impact Assessment, approval of the installation, approval of the operation, etc. The environmental impact assessment procedure is the first stage of the process.

7. What kind of authority (local, regional, central) is responsible for making decisions on EIA and/or to grant/refuse development consent?

Projects are divided into two major categories and three subcategories. In the first category are listed the projects in which the Environmental Impact Assessment is mandatory and the procedure as described in Law 4014/2011 is followed in full. In category A-1 projects, the competent authority is the Ministry. In category A-2 projects, the competent authority is the decentralized Administration. Category A-1 consists of major projects, i.e. sites of waste landfill, which have impact on the environment and require development consent. Category A-2 consists of small-scale projects similar to the A-1 category, i.e. regional sites of waste landfill. In category B are listed small-scale projects with an obligatory Environmental Impact Assessment. In these cases, a joint ministerial decision is mandatory.

8. Is the decision resulting from the environmental impact assessment a pre-condition to grant development consent? In case of a multi-stage development consent procedure, at what stage are the results of the consultations with environmental authorities and the public and environmental information taken into consideration?

The decision resulting from the environmental impact assessment is a pre-condition to grant development consent. The environmental impact assessment is the first step in the multi-stage development consent procedure, followed by the results of the consultations with environmental authorities and the public and environmental information.

9. In case of projects for which the obligation to carry out environmental impact assessment arises simultaneously from the EIA Directive and other Union legislation, does your country ensure a coordinated or joint (e.g. single) procedure (“one stop shop”)? If yes, please provide a list of the Directives covered.

In Greece there is not a coordinated or joint (“one stop shop”) procedure. The procedure followed is: The relevant case is forwarded to the competent authority (see Answer 7), after disclosure, consultation and asking public opinion. The implementation of the new system on the internet for complete transparency on each case can be found in the website: <http://aepo.ypeka.gr>. The received responses and the studies are always evaluated before reaching a decision.

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10. Is it possible to carry out joint or coordinated environmental assessments, fulfilling the requirements of the EIA Directive, and Directive 92/32/EEC and/or Directive 2009/147/EC? Is there a legal basis for carrying out such assessments?

There is not a legal basis. The issues are covered on a practical application basis.

11. What arrangements are established with neighboring Member States for exchange of information and consultation?

Greece has ratified the Convention on Environmental Impact Assessment in a Cross-boundary Context (National Law 2540/1997), the Convention on the Cross-boundary Effects of Industrial Accidents (National Law 2546/1997), the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in environmental Matters (National Law 3422/2005).

12. Is the developer obliged by national legislation to consider specified alternatives to the proposed project?

Yes, the developer is obliged by national legislation to consider specified alternatives to the proposed project. National Law 4014/2011 regulates the issue together with the content of the environmental impact assessment.

13. Is scoping (e.g. scope of information to be provided by the developer) a mandatory step in the EIA procedure?

Scoping is not mandatory, however there is a joint ministerial decision or a ministerial decision which provides detailed specifications for the drafting of the relevant environmental impact study.

14. Are there any provisions to ensure the quality of the EIA report prepared by the developer?

There are no special provisions to ensure the quality of the EIA report prepared by the developer. However, there is relevant evaluation of the studies according to given specifications and there are "certificates" of environment (N. 3316/2005).

15. How is the cumulation with other existing and/or approved/already proposed projects considered? Please illustrate your answer by referring to examples of national case law!

The respective inspection is mandatory within the framework of the environmental impact assessment. There are relative rulings of the Council of State (CoS), eg regarding the Company "Greek Gold" (CoS 1492/2013, CoS 839/2014) or regarding the diversion of the river Achelous (CoS-plenary 26/2014).

16. How is it ensured that the purpose of the EIA Directive is not circumvented by splitting of projects - e.g. 'salami slicing' of projects (i.e. the assessment and permitting of large-scale, usually linear infrastructure projects by pieces)? Please illustrate your answer by referring to examples of national case law!

Under the provisions of Law 4014/2011, the study should be complete for the supporting projects as well. In this way the "salami slicing" is avoided. But sometimes, some projects can not be licensed as a whole, e.g. the roadworks. This cannot be considered as "salami slicing", that is cutting a big project into smaller projects in order to circumvent the EIA.

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These cases are excluded under the provisions of Law 4014/2011 (CoS rulings on projects in Fig Tree and Mesochora Achelous, CoS-Plenary 26/2014)

17. Can the screening decision be appealed? If yes, who can lodge an appeal?

The screening decision can be appealed in court. Administrative tribunals have the jurisdiction to hear the case, and the supreme administrative court is the Council of State (CoS). Any person with vested interest can take legal actions.

18. Is there a time limit for the validity of the EIA-decision and the development consent? Is the permit holder obliged to apply for a new permit after a certain period of time?

A) The decision of the EIA is valid for ten years.

B) After 10 years, the permit holder has to apply for a new permit or for the extension of the old one, if the conditions remain the same.

19. How is the public informed about the project and the EIA? When is the public informed about a project requiring an EIA and about a pertaining administrative procedure? Where can the information be accessed? What does the information contain? Who gets access to this information?

A) After the publication of the project in the Regional Councils, the case is displayed on a billboard of the Regional Council, as well as the website <http://aepo.ypeka.gr>.

B) During the licensing process and before the decision, anyone who has an interest and a vested interest for the project has access to the entire project file.

20. How does the authority ensure public access to environmental information in the procedures based on the EIA Directive? To what extent is this provision of information user-friendly (easy to find, free of charge, searchable, online, downloadable, etc.)?

Access is ensured as described in answer 19.

21. What are the criteria for taking part in an environmental impact assessment procedure, besides the project developer and the competent authority? What rights can people living in the neighborhood, NGOs, authorities invoke in the procedure? What legal rights do participants of the proceeding have? What happens if the competent authority denies someone's legal standing? Please illustrate your answer by referring to examples of national case law!

The public can easily and freely participate in an EIA procedure (see: answer to question 19). The jointly competent authorities are informed of the relevant opinions from the case studies. Which are the jointly competent authorities depends on the nature of the particular project and thus relevant joint ministerial decisions are issued. Everyone (NGOs, etc.) can have an opinion, if they have a vested interest. Jurisprudence: eg Associations of residents regarding the ruling for the Football Stadium Golf of PAO in Botanicos, CoS (Plenary) 3059/2009.

22. Can the decisions of the authority (local, regional, central) responsible for making decisions on EIA be appealed? Who is the superior authority deciding over the appeal?

Yes, they can be appealed. The appeal is lodged in the administrative courts and the supreme administrative court is the Council of State (CoS).

23. Is there a judicial review against decisions made in EIA procedures? If yes, what matters can be challenged and what decisions can the court take?

Yes, there is a judicial review against decisions made in EIA procedures (look at answer 22). Usually the disputes referred to procedural issues, e.g. compliance with the principles of publicity. The Council of State can assess the adoption of environmental conditions and determine the qualitative assessment, e.g. Achelous diversion project.

24. What are the criteria of legal standing against decisions based on EIA? Who (individuals, NGOs, others) is entitled to challenge the EIA decision at the court? Do individuals need to be affected? If yes, in what way do individuals need to be affected by the decisions in order to have standing?

The answer is roughly given in question 21. In order to lodge an appeal, there should always be a vested interest of the applicant. Infringement of the right will be presented to the appeal and will be evaluated by the Court.

25. Does an administrative appeal or an application for judicial review have suspensive effect on the decision? Under which conditions can the EIA decision be suspended by the court?

The issue of the suspension of the decision will be determined by the courts (Department of Suspensions).

26. Does the court have the competence to change/amend an EIA decision? Can it decide on a new condition or change the conditions of the EIA decision?

If the court diagnoses a violation, it may cancel the project, either in whole or partially.

27. In general, is it required to include monitoring of environmental impacts in the EIA? How is compliance with the monitoring conditions being checked? Is the public informed about the results of monitoring and if yes, how?

Monitoring is undertaken by the Environmental Inspectors, who control and compliance with the EIA. Interested parties have the opportunity to submit information request. Monitoring is undertaken by the Environmental Inspectors, who observe, among other things, the compliance with the EIA. The interested parties are entitled to submit an information request.

28. Who controls compliance with EIA decisions in your country? Are there specialized inspectorates checking compliance? How often do inspections take place? What enforcement policy do the authorities have (warnings, injunctions, sanctions and so on) in case of detected non-compliance? Has information on the results of inspections and related enforcement actions been disseminated to the wider public, and if yes, how?

A) There is a special inspection unit: the Environmental Inspectors. Also the Environment Quality Control Teams (EQCT) and the authorities granting the development consent decision.

B) The Inspection Service issues a corresponding program and there are intensive inspections.

C) Penalties are provided for in Law 4014/2011, e.g. fine, demolition, etc. Information on the results of the inspections are disclosed as indicated above.

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29. If EIA decisions are infringed, what types of sanctions can be imposed by whom? Are these sanctions administrative, criminal or civil in nature? What is the level of sanctions? Are those sanctions often applied and are they considered to be effective? Can those sanctions be applied on legal persons? Please illustrate your answer by referring to examples of national case law!

Refer to answer 28 and to the rulings of the Council of State mentioned in previous answers.

30. If a given activity falls under the provisions of the EIA legislation, but the developer started the activity without the required authorization, what kind of measures can be taken by the competent authority?

The competent authority acts after receiving information and/or complaints, and prepares a report to the relevant Minister or Inspector. If a criminal offense is detected, the competent Public Prosecutor pursues the investigation.

31. Are there any penalties applicable to infringements of the national provisions adopted pursuant to the EIA Directive?

There are both administrative and penal sanctions as referred to on national Law 4014/2011 and Law 4042/2012.

Answers are provided by Gerasimos Fourlanos, Areopagite

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