

Questionnaire for the report of Entity Republic of Srpska, Bosnia and Herzegovina on the implementation of the Convention on Environmental Impact Assessment in a Transboundary Context in the period 2016–2018

Information on the focal point for the Convention

1. Name and contact information:

Srebrenka GOLIC, Minister

Ministry of Physical Planning, Civil Engineering and Ecology of Republic of Srpska

Trg Republike Srpske 1

78000 BANJA LUKA

Telephone: +387 51 33 95 92

Fax: +387 51 33 96 53

E-mail: kabinetministra@mgr.vladars.net

Information on the point of contact for the Convention

2. Ministry of Foreign affairs of Bosnia and Herzegovina, Sarajevo
c/o Permanent mission of BiH to Geneve,
22 bis, rue Lamartine
CH-1203 Geneve
Switzerland
Telephone: +41 22 345 8844 or 58
Fax: +41 22 345 8889

Name and contact information (if different from above):

Information on the person responsible for preparing the report

3. Country: Bosnia and Herzegovina (BiH)
4. Surname: Marija
5. Forename: Nikolic
6. Institution: Ministry of Physical Planning, Civil Engineering and Ecology of Republic of Srpska/BiH
7. Postal address: Trg Republike Srpske 1, 78 000 Banja Luka, Bosnia and Herzegovina
8. E-mail address: m.nikolic@mgr.vladars.net
9. Telephone number: + 387 51 339 508
10. Fax number: +387 51 339 653 , 339 719

11. **Date on which report was completed: March 31st 2019.**

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.

Please do not reproduce the text of the legislation itself but summarize and explicitly refer to the relevant provisions transposing the Convention text (e.g., EIA Law of the Republic of ..., art. 5, para. 3, of Government Resolution No. ..., para. ... item...)

Article 1 Definitions

I.1. Is the definition of impact for the purpose of the Convention the same in your legislation as in article 1?:

(a) Yes

(b) Yes, with some differences (please provide details): By the Law on Environmental Protection (Official Gazette of Republika Srpska No. 71/12 and 79/15), the environmental impact is defined as: environmental impact means a change in the environment caused by using and burdening the environment (Art. 14, Para. am).

(c) No (please provide the definition):

(d) There are no definitions of impact in the legislation

Your comments: *the use and pressures to the environment are caused by a proposed activity in the spirit of the Convention. Additionally, pressures to the environment include emissions of substances or energy to the environment.*

I.2. Is the definition of transboundary impact for the purpose of the Convention the same in your legislation as in article 1? Please specify each below.

(a) Yes

(b) Yes, with some differences (please provide details):

(c) **No** (please provide the definition): Our legal acts do not provide specific definition of the transboundary impacts. However, the Law on Environmental Protection recognizes the "affected area" and defines it as: affected area means the area or part of the area where a certain degree of environmental impact has been triggered, which is defined by the regulations or which may arise as a result of the use of the environment (Art. 14, Para. ag).

(d) There are no definitions of transboundary impact in the legislation

Your comments:

I.3. Please specify how major change is defined in your national legislation:

The major change, as defined in the Law on Environmental Protection like: “change in operation” means the change in nature, functioning or an extension of a plant, which could result in consequences for the environment (Art. 14, Para. ab).

I.4. How do you identify the public concerned? Please specify (more than one option may apply):

(a) Based on the geographical location of the proposed project

(b) By making the information available to all members of the public and letting them identify themselves as the public concerned

(c) By other means (please specify):

Your comments:

Article 2 General provisions

I.5. Provide legislative, regulatory, administrative and other measures taken in your country to implement the provisions of the Convention (art. 2, para. 2):

(a) Law on EIA: as described above in answer to the question I.2. (c), procedural steps to be taken in the case of transboundary impacts are regulated in articles 65,75-79 of the Law on environmental protection

(b) EIA provisions are transposed into another law(s) (please specify):

(c) Regulation (please indicate number/year/name): the Rulebook on the projects subject to the EIA procedure, and criteria for determining the Necessity and scope of the EIA (*Official Gazette of RS 124/12*), lists all activities from the Annex I of the convention. Except to this one, the relevant rulebooks for carrying out the EIA procedure are:

Rulebook on the Installations that may be constructed only if the Environmental Permit is granted (*Official Gazette of RS 124/12*),
Manual on the Contents of the EIA Study (*Official Gazette RS 108/13*), etc.

(d) Administrative (please indicate number/year/name):

(e) Other (please specify):

Your comments:

I.6. Please describe any differences between the list of activities in your national legislation and appendix I to the Convention, if any:

(a) There is no difference; all activities are transposed in the national legislation as is

(b) It differs slightly (please specify):

Your comments:

I.7. Identify the competent authority/authorities responsible for carrying out the EIA procedure in your country (please specify):

(a) There are different authorities at national, regional, local levels

(b) They are different for domestic and transboundary procedures

(c) Please name the responsible authority/authorities: RS Ministry of Spatial Planning, Civil Engineering and Ecology, FBiH Ministry of Environment and Tourism, and Government of Brčko District of BiH.

In case of transboundary impacts, i.e. beyond the BiH state borders, coordination of activities is carried out with assistance of:

- BiH Ministry of Foreign Trade and Economic Relations

- The Inter-Entity Coordination Body for Environment

(d) There is no single authority responsible for the entire EIA procedure:

Your comments:

I.8. Is there an authority in your country that collects information on all the transboundary EIA cases? If so, please name it:

(a) No

(b) Yes (please specify):

Your comments:

I.9. How does your country, As a Party of origin and as an affected Party, ensure that the opportunity given to the public of the affected Party is equivalent to the one given to the Party of origin's public, as required in article 2, paragraph 6 (please explain):

EIA procedures are separate for the affected Party and Party of origin. The competent Ministry informs the affected Party and domestic public during all stages of the procedure of EIA, and provides participation of the official representatives of affected party, to the public hearings.

The information to domestic public is made available at the official web site, and in some individual cases EIA documentation is made available for public, at the official web site of the affected parties.

Article 3 Notification

I.10. As a Party of origin, when do you notify the affected Party (art. 3, para. 1)? Please specify:

- (a) During scoping
- (b) When the EIA report has been prepared and the domestic procedure started
- (c) After finishing the domestic procedure
- (d) At other times (please specify):

Your comments:

I.11. Please define the format of notification:

- (a) It is the format as decided by the first meeting of the Parties in its decision I/4 (ECE/MP.EIA/2, annex IV, appendix)
- (b) The country has its own format (please attach a copy)
- (c) No official format used

Your comments:

I.12. As a Party of origin, what information do you include in the notification (art. 3, para. 2)? Please specify (more than one options may apply):

- (a) The information required by article 3, paragraph 2
- (b) The information required by article 3, paragraph 5
- (c) Additional information (please specify):

Your comments:

I.13. As a Party of origin, does your national legislation contain any provision on receiving a response to the notification from the affected Party in a reasonable time frame (art. 3, para. 3, “within the time specified in the notification”)? Please specify:

- (a) National legislation does not cover the time frame
- (b) Yes, it is indicated in the national legislation (please indicate the time frame): In accordance with the Law on Administrative procedure, a reasonable time frame for obtaining a reply from the affected party, taking into account the obligations from domestic legislation is four weeks/30 days, which is quite enough for providing comments. If not, we can extend the deadline, after receiving explanation from the affected party.

(c) It is determined and agreed with each affected Party case by case in the beginning of the transboundary consultations (please indicate the average length in weeks):

Your comments:

Please specify the consequence if a notified affected Party does not comply with the time frame, and the possibility of extending a deadline:

I.14. How do you inform the public and authorities of the affected Party (art. 3, para. 8)? Please specify:

(a) By informing the point of contact to the Convention listed on the Convention website¹

(b) Other (please specify):

Your comments:

I.15. On what basis is the decision made to participate (or not) in the transboundary EIA procedure as an affected Party (art. 3, para. 3)? Please specify:

(a) Notified ministry/authority of the affected Party responsible for EIA decides on its own based on the documentation provided by the Party of origin

(b) Based on the opinions of the competent authorities of the affected Party

(c) Based on the opinions of the competent authorities and that of the public of the affected Party

(d) Other (please specify):

Your comments: the decision about taking part in the EIA procedure is based on all aforementioned criteria. It is very important to take into consideration the public opinion as well as opinion of the local authorities (local self-governments) affected by the impact. Upon receipt of the project documentation, the competent Ministry determines whether the project belongs to the List I (projects for which the EIA is mandatory) or to the List II (project for which the competent ministry decides on case-by-case basis whether the EIA procedure needs to be undertaken).

If the project falls under the List II, one of the criteria for deciding on necessity for EIA procedure, in accordance with the Article 4 of the Rulebook, is the potentially significant impact to the environment of other entity, Brcko District or other state.

I.16. If the affected Party has indicated that it intends to participate in the EIA procedure, how are the details for such participation agreed, including the time frame for consultations and the deadline for commenting (art. 5)? Please specify:

(a) Following the rules and procedures of the Party of origin

(b) Following the rules and procedures of the affected Party

(c) Other (please specify):

Your comments: in case that it concerns a project with a transboundary impact, the consultations are always organized at the country and/or entity level, in accordance with the legislation of RS, FBH and BD. Our responsible ministries usually organized consultations through meetings and exchange of written communication with the authority of the affected Party (Ministry). Transboundary EIA cooperation is conducted through points of contact. During the procedure we notify the affected Party, and we send the final documentation to them to provide them with an opportunity to review it. When appropriate, public consultations can be organized as joint consultations in the final stage of the EIA procedure.

¹ List available from http://www.unece.org/env/eia/points_of_contact.htm.

Articles 3.8 and 4.2 Public participation

I.17. How can the public express its opinion on the EIA documentation of the proposed project (art. 5)? Please specify (more than one option may apply):

As a Party of origin

- (a) By sending comments to the competent authority/focal point
- (b) By taking part in a public hearing
- (c) Other (please specify):

As an affected Party

- (d) By sending comments to the competent authority/focal point
- (e) By taking part in a public hearing
- (f) Other (please specify):

Your comments:

I.18. Please indicate whether your national EIA legislation requires the organization of a public hearing on the territory of the affected Party in cases where your country is the country of origin:

- (a) Yes
- (b) No

Your comments: In these cases we follow the procedures stipulated in the Espoo Convention

I.19. Please indicate whether your national EIA legislation requires the organization of public hearings in cases where your country is the affected Party:

- (a) Yes
- (b) No

Your comments: In these cases we follow the procedures stipulated in the Espoo Convention

Article 4 Preparation of the environmental impact assessment documentation

I.20. How do you ensure sufficient quality of the EIA documentation As a Party of origin? Please specify:

- (a) The competent authority checks the information provided and ensures it includes all information required under appendix II as a minimum before making it available for comments
- (b) By using quality checklists
- (c) There are no specific procedures or mechanisms

(d) Other (please specify):

Your comments:

I.21. How do you determine the relevant information to be included in the EIA documentation in accordance with article 4, paragraph 1? Please specify (more than one option may apply):

(a) By using appendix II

(b) By using the comments received from the authorities concerned during the scoping phase, if applicable

(c) By using the comments from members of the public during the scoping phase, if applicable

(d) As determined by the proponent based on its own expertise

(e) By using other means (please specify):

Your comments: Manual on the Contents of the EIA Study published in the Official Gazette RS 118/13, the content of the EIA is fully harmonized with the contents of EIA documentation as proposed by the Article 4 paragraph 1, and Appendix II of the Convention.

I.22. How do you determine “reasonable alternatives” in accordance with appendix II, paragraph (b)?

(a) On a case-by-case basis

(b) As defined in the national legislation (please specify): summary of the options that the project holder considered and stating the reasons for the selected solution, considering the environmental impacts.

(c) Other (please specify):

Your comments:

Article 5

Consultations on the basis of the environmental impact assessment documentation

I.23. Does your national EIA legislation have any provision on the organization of transboundary consultations between the authorities of the concerned Parties? Please specify:

(a) Yes, it is obligatory

(b) No, it does not have any provision on that

(c) It is optional (please specify):

Your comments: Article 79 of the Law on Environmental Protection, Para. 1 and 2 (RS Official Gazette, No. 71/12 and 79/15),

Article 6

Final decision

I.24. Please indicate all points below that are covered in a final decision related to the implementation of the planned activity (art. 6, para. 1):

- (a) Conclusions of the EIA documentation
- (b) Comments received in accordance with article 3, paragraph 8, and article 4, paragraph 2
- (c) Outcome of the consultations as referred to in article 5
- (d) Outcomes of the transboundary consultations
- (e) Comments received from the affected Party
- (f) Mitigation measures
- (g) Other (please specify):

I.25. Are the comments of the authorities and the public of the affected Party and the outcome of the consultations taken into consideration in the same way as the comments from the authorities and the public in your country (art. 6, para. 1)?:

- (a) Yes
- (b) No

Your comments:

I.26. Is there any regulation in the national legislation of your country that ensures the implementation of the provisions of article 6, paragraph 3?:

- (a) No
- (b) Yes (please specify):

Your comments:

I.27. Do all activities listed in appendix I (items 1-22) require a final decision to authorize or undertake such an activity?:

- (a) Yes
- (b) No (please specify those that do not):

Your comments:

I.28. For each type of activity listed in appendix I that does require a final decision, please indicate the legal requirements in your country that identify what is regarded as the “final decision” to authorize or undertake such an activity (art. 6 in conjunction with art. 2, para. 3), and the term used in the national legislation to indicate the final decision in the original language: Rješenje o obavezi sprovođenja procjene uticaja i obimu procjene uticaja (Article 66); Rješenje o odobravanju studije; Rješenje o odbijanju studije (Article 73).

Your comments: Articles 66 and 73, Law on Environmental Protection (RS Official Gazette, No. 71/12 and 79/15),

Article 7

Post-project analysis

I.29. Is there any provision regarding post-project analysis in your national EIA legislation (art. 7, para. 1)?:

- (a) No
- (b) Yes (please specify the main steps to be taken and how the results of it are communicated):

Your comments:

Article 8

Bilateral and multilateral cooperation

(a) Agreements

I.30. Does your country have any bilateral or multilateral agreements based on the Convention (art. 8, appendix VI)?:

- (a) No
- (b) Yes Please specify with which countries:

If publicly available, please also attach the texts of such bilateral and multilateral agreements, preferably in English, French or Russian.

I.31. What issues do these bilateral agreements cover (appendix VI)? (More than one option may apply):

- (a) Specific conditions of the subregion concerned
- (b) Institutional, administrative and other arrangements
- (c) Harmonization of the Parties' policies and measures
- (d) Developing, improving, and/or harmonizing methods for the identification, measurement, prediction and assessment of impacts, and for post-project analysis
- (e) Developing and/or improving methods and programmes for the collection, analysis, storage and timely dissemination of comparable data regarding environmental quality in order to provide input into the EIA
- (f) Establishment of threshold levels and more specified criteria for defining the significance of transboundary impacts related to the location, nature or size of proposed activities
- (g) Undertaking joint EIA, development of joint monitoring programmes, intercalibration of monitoring devices and harmonization of methodologies
- (h) Other, please specify:

Your comments:

(b) Procedural steps required by national legislation

I.32. Please describe how the steps required for a transboundary EIA procedure under your national legislation correlate to domestic EIA in the lead-up to the final decision. If there are differences in the procedures for screening/scoping or for preparation of the environmental impact assessment and consultation, please specify.

Alternatively, this question can be answered or supported by providing a schematic flowchart showing these steps.

Your comments: The Law on Environmental Protection in Article 79, paragraph 1 reads: If the projects are likely to have a transboundary impact on another country, the Ministry shall proceed in terms of the provisions of Articles 75 to 78 of this Law, when there is an

obligation on the basis of international treaties or agreements, the principle of reciprocity or formal political agreements.

Also, the Law on Amendments to the Law on Environmental Protection in Article 79, paragraph 1, Law on Environmental Protection before the word “If”, number (1) shall be added in parentheses, and after paragraph 1, new paragraph 2 shall be added to read as follows:

“(2) If another country notifies the Ministry of its intention to participate in the process of Environmental Impact Assessment of the project referred to in paragraph 1 of this Article, the Ministry shall carry out the procedure in accordance with the Convention on Environmental Impact Assessment in a transboundary context”.

I.33. Does your country have special provisions or informal arrangements concerning transboundary EIA procedures for joint cross-border projects (e.g., roads, pipelines)?

- (a) No
- (b) Yes (please specify):
 - (i) Special provisions:

(ii) Informal arrangements:

Your comments:

I.34. Does your country have special provisions or informal arrangements concerning transboundary EIA procedures for nuclear power plants (NPPs)?

- (a) No
- (b) Yes (please specify):
 - (i) Special provisions:
 - (ii) Informal arrangements:

Your comments:

Part two
Practical application during the period 2016–2018

Please report on your country’s practical experiences in applying the Convention (not your country’s procedures described in part one), whether As a 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.

II.1. Does your country object to the information on transboundary EIA procedures that you provide in this section being compiled and made available on the website of the Convention? Please specify (indicate “yes” if you object):

- (a) Yes
- (b) No

Your comments:

1. Experience in the transboundary environmental impact assessment procedure during the period 2016–2018

Cases during the period 2016–2018

II.2. If your country’s national administration has a record of transboundary EIA procedures that were under way during the reporting period, in which your country was a Party of origin or affected Party, please list them in the tables II.2 (a) and II.2 (b) below (adding additional rows as needed).

Table II.2 (a)

Transboundary EIA procedures: As a Party of origin

Project name	Starting date (date notification sent)	Affected Party/ Parties	Timing of the notification (screening, scoping or preparation of the EIA documentation)	Length of the main steps in months			Final decision (date of issuing, if information is available)
				Submission of the environmental report	Transboundary consultation (expert), if any	Public participation, including public hearing, if any	
1.							
2.							
3.							
4.							
...							

Your comments:

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.

II.3. The Convention does not mention the translation of EIA documentation as an important prerequisite for the participation of potentially affected Parties in a transboundary EIA procedure. Please explain:

(a) How has your country addressed the issue of the translation of EIA documentation?

(b) What difficulties has your country experienced with regard to translation and interpretation, both as a Party of origin and as an affected Party, and what solutions has it found?

(c) Which Party covers the cost of translation of EIA documentation?

(i) As a Party of origin:

(ii) As an affected Party: Official text of Convention has been translated and published in the Official Gazette of Bosnia and Herzegovina no. 8/09. Apart from the original text, we haven't translated other documents related to the Convention, i.e. procedural documentation etc.

(iii) Other, please specify:

(d) What parts of the EIA documentation does your country usually translate?

(i) As a Party of origin:

(ii) As an affected Party:

(e) Please indicate whether and how the issue of translation is addressed in bilateral agreements between your country and other Parties.

(f) As a Party of origin, in which language do you usually provide EIA documentation to the affected Party?

(i) English

(ii) The affected Party's language

(iii) Other (please, specify) On one of the Official language of Bosnia and Herzegovina, we usually provide EIA documentation to the affected Party.

(g) As an affected Party, from which language do you usually translate?

(i) English

(ii) Language of the Party of origin

(iii) Other (please, specify)

(h) Describe any difficulties that your country has encountered during public participation procedures and consultations under article 5, for example with regard to timing, language and the need for additional information.

The transboundary public participation is organized through direct announcement of the competent authority in the affected country, respecting the standard procedures of

announcement of the Country of origin. We did not encounter any significant difficulties with the public participation and complaints from the public.

(i) As a Party of origin:

Experience with public participation
Experience with consultations under article 5

(ii) As an affected Party:

Experience with public participation

Experience with consultations under article 5

- (i) Please describe how the costs of interpretation during the hearings are covered:
- (ii) By the Party of origin:
- (iii) By the affected Party:
- (iv) Shared by both Parties concerned:
- (v) Developer:
- (vi) Other, please specify

II.4. Describe any difficulties that your country has encountered during transboundary public participation (expert consultation, public hearing, etc.), including on issues of timing, language and the need for additional information:

II.5. Does your country have successful examples of organizing transboundary EIA procedures for joint cross-border projects or that of an NPP?:

(a) Yes

(b) No

II.6. If you answered yes to question II.5, please provide information on your country's experiences describing, for example, means of cooperation (e.g., contact points, joint bodies, bilateral agreements, special and common provisions, etc.), institutional arrangements, and how practical matters are dealt with (e.g., translation, interpretation, transmission of documents, etc.):

(a) For joint cross-border projects:

(b) For NPPs:

II.7. Please provide examples from your experience during the reporting period (either complete cases or elements such as notification, consultation and public participation) that, in your view, constitute good practice:

II.8. Would your country like to introduce a case in the form of a Convention "case study fact sheet"?

(a) No

(b) Yes (please indicate which cases):

II.9. Has your country carried out post-project analyses in the period 2013–2015:

(a) No

(b) Yes (please indicate which projects, along with the challenges in implementation and any lessons learned):

2. Experience in using the guidance in 2016–2018

II.10. Has your country used in practice the following guidance, adopted by the Meeting of the Parties and available online?

(a) Guidance on Public Participation in Environmental Impact Assessment in a Transboundary Context (ECE/MP.EIA/7):

No

Yes (please provide details):

Your experience with using this guidance:

Your suggestions for improving or supplementing the guidance:

(b) Guidance on subregional cooperation (ECE/MP.EIA/6, annex V, appendix):

No

Yes (please provide details):

Your experience with using this guidance:

Your suggestions for improving or supplementing the guidance:

(c) Guidance on the Practical Application of the Espoo Convention (ECE/MP.EIA/8):

No

Yes (please provide details):

Your experience with using this guidance:

Your suggestions for improving or supplementing the guidance:

3. Clarity of the Convention

II.11. Has your country had difficulties implementing the procedures defined in the Convention, either As a Party of origin or as an affected Party, because of a lack of clarity of the provisions?

No

Yes (please indicate which provisions and how they are unclear):

4. Suggested improvements to the report

II.12 Please provide further suggestions (preferably specific drafting proposals) for how this report could be improved. It would be beneficial to take participation of the Ministry's representatives at conferences and meetings has proved to be beneficial in terms of exchange of experience and information which is not available in a written form.