



Republic of Serbia
Ministry of Agriculture and Environmental Protection

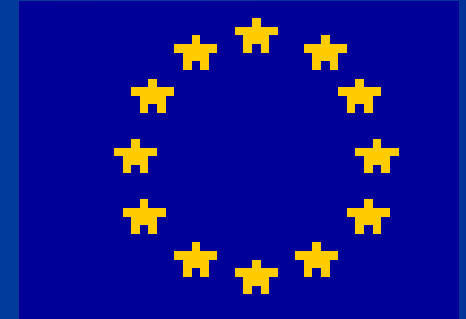
Sabina Ivanović, M.Sc.
Head of Department for EIA

Public participation in EIA procedure in Transboundary Context in Serbia





EU REGULATION



**Council Directive 2011/92/EU as amended by
2014/52/EU**

Council Directive 2001/42/EC

Aarhus Convention (Aarhus 25th June 1998.)

Directive 2003/35/EC

Espoo Convention (Finland in 1991.)





Legal background

Law on Environmental Impact Assessment (Official Gazette of the Republic of Serbia No.135/2004, 36/2009)

Law on Environmental Protection (“Official Gazette of RS”, No. 135/2004, 36/2009 and 72/2009)

In 2008, the **Decree** for List I and List II has been adopted. List I is a list of projects for which an impact assessment is mandatory, and List II is a list of projects for which an impact assessment may be required („Official Gazette of the Republic of Serbia“, No. 114/08)

In 2007, the Republic of Serbia has ratified the ESPOO CONVENTION- **Law on Ratification of the Convention on Environmental Impact Assessment in a Transboundary Context** („Official Gazette of the Republic of Serbia“, No. 102 /07)

In 2016. the Republic of Serbia has ratified **Amendments to the ESPOO Convention** („Official Gazette of the Republic of Serbia“, No.4/16)

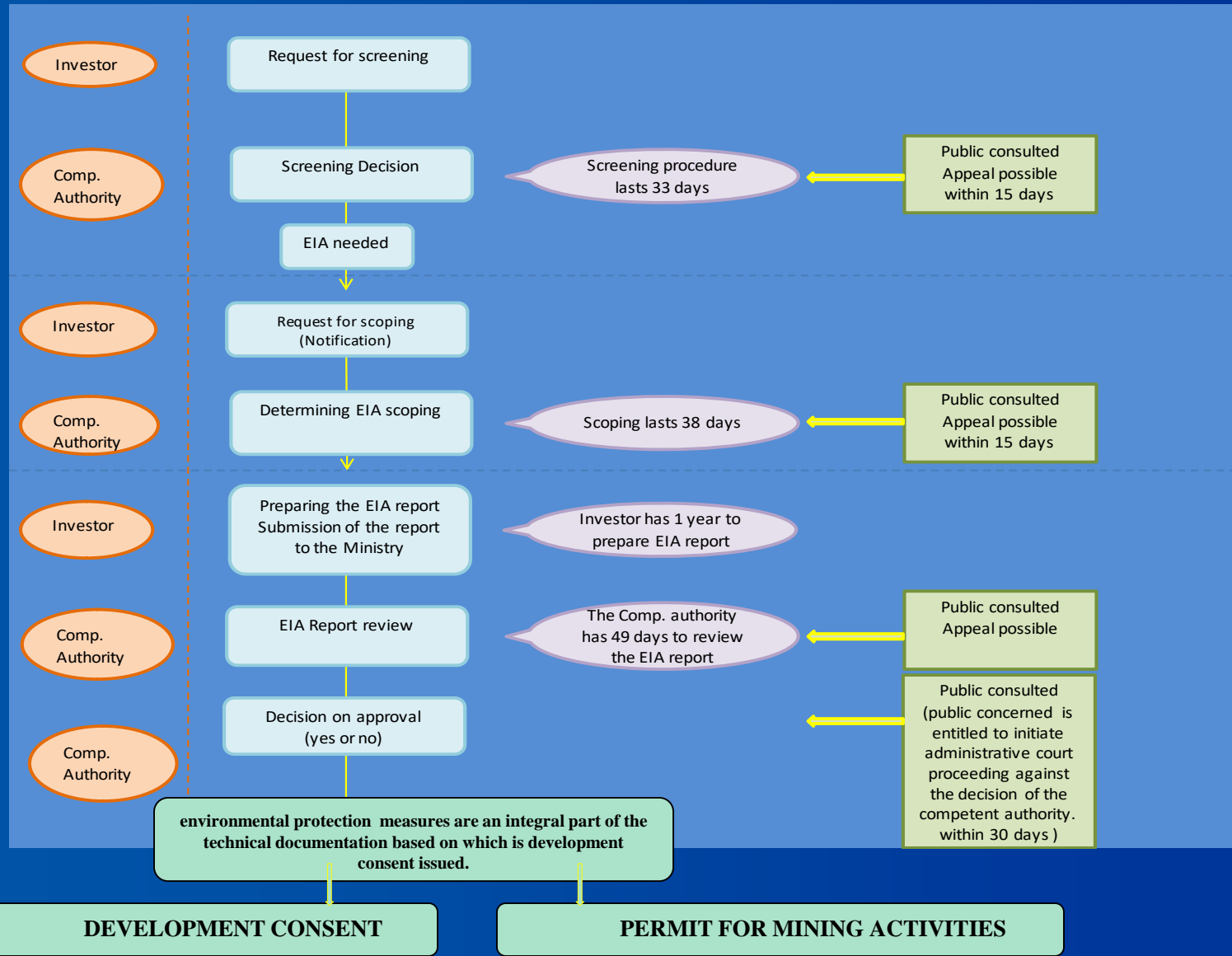
In 2010, the Republic of Serbia has ratified the SEA Protocol -**Law on Ratification of the Protocol on the to the Strategic Environmental Impact Assessment to the Convention on Environmental Impact Assessment in a Transboundary Context** („Official Gazette of the Republic of Serbia“, No. 1 /10)

In 2009, the Republic of Serbia has ratified the AARHUS CONVENTION - **Law on Ratification of the Aarhus Convention** („Official Gazette of the Republic of Serbia“, No. 38/09)

Law on Free Access to Information of Public Importance, („Official Gazette of the Republic of Serbia“, No. 120/04, 54/07, 104/09 and 36/10).



SCOPE OF EIA IMPLEMENTATION





EIA FACTS:

- Project for the construction of the new Block B3 at Thermal Power Plant (TPP) Kostolac B, on cadastral parcel 303, Cadastre Municipality (CM) Kostolac-Selo, on the territory of the city of Požarevac
- Capacity : 350 MW List I (mandatory)
- Project developer is the Public Company, Electric Power Industry of Serbia
- Responsible authority is the Ministry of Agriculture and Environmental Protection.

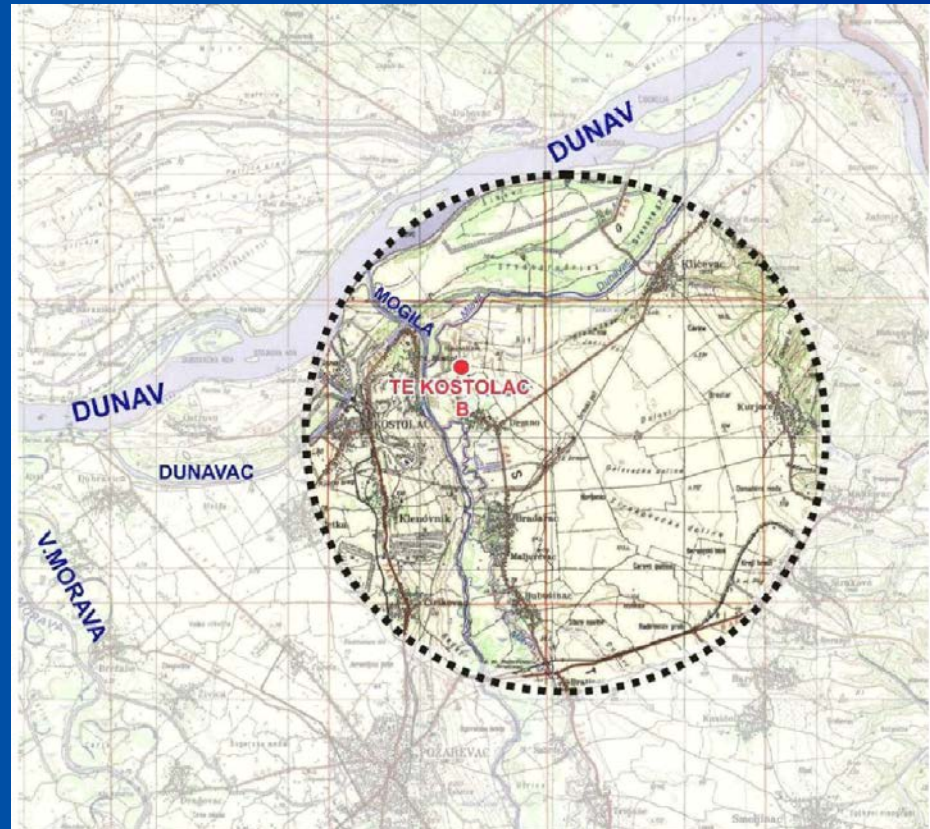


The planned project envisages the construction of the new block B3 350 MW power plant at the existing location of TPP KOSTOLAC, where Kostolac A (100 + 210 MW) and Kostolac B (2x350MW) thermal power plants are already situated. Facilities on Block B3 will be located southeast from existing Blocks B1 and B2, and south from the coal warehouse.





Kostolac B3 will be situated on the right bank of the Danube (within 5 km) - about 100 km downstream from Belgrade.





Harmonization with planning and strategic documents

The planned project envisages construction of block B3 350 MW power plant at the existing location of TPP KOSTOLAC, where Kostolac A (100 + 210 MW) and Kostolac B (2x350MW) thermal power plants are already situated, and in accordance with the spatial plan of the Republic of Serbia and Energy Development Strategy of the Republic of Serbia by 2025, with projections by 2030 on the environment, which was presented to the public during public consultation (October-November 2013) and submitted for opinion to all relevant institutions and neighboring countries.



EIA PROCEDURE

In the period from October to December 2013, the competent authority, carried out the procedure of decision-making on environmental impact assessment by:

- adopting a decision on determining the scope and content (17/05/2013). In this stage there was no public participation and the documentation was not available on website of the Ministry
- adopting a decision on the approval of the Environmental Impact Assessment Study (30/12/2013).



During the procedure all relevant authorities and the public were informed either through the media or the website of the competent authority. The public and stakeholders provided their remarks (2 NGOs, one interested citizen and the local authorities) both in writing and during the public debate. The representatives of local government and non-governmental organizations were most actively involved, receiving feedback during the decision-making process and their approvals and remarks were introduced in the corrected version of the Study.



ESPOO PROCEDURE

- The Republic of Serbia, which ratified the Espoo Convention, **did not apply** the provisions of this Convention to the project concerned.
- Power plant projects are contained in the Annex to the Convention.
- In this case it is not about building a new power plant with all the accompanying technical - technological aspects that would form one complete whole, but it is about installing a new unit at an existing power plant Kostolac B, whose blocks have been operating from 1987 to 1991.
- One remark by one NGO concerning the non-implementation of the obligations in accordance with the Espoo Convention, we did not consider.



Important facts related to the project

The concerned plant is constructed in accordance with the latest environmental protection standards and in accordance with LCP and IE Directives, as well as:

IPPC – Reference on Best Available Techniques for Large combustion plants, July 2006;

IPPC – Reference on Best Available Techniques for energy efficiency, February 2009;

IPPC – Reference on Best Available Techniques for on General principles of monitoring, July 2003;

All this will contribute to raising the efficiency of the existing power plant, which includes the reduction of air pollution, as well as water and soil pollution. The procedure of environmental impact assessment was completed in accordance with the national legislation by approving the Environmental Impact Assessment Study related to building block B3 in TPP “Kostolac B“ at the end of December 2013.



What happened next?

After reviewing the documentation and announcing the approval decisions, an NGO filed a complaint with the Administrative Court against the decision that has been rendered, which is based on a claim of an incomplete procedure and failure to comply with provisions of the Espoo Convention, i.e. during the decision-making process, the competent authority failed to inform the neighbouring country, in this case Romania, which could possibly be affected by the concerned project in terms of transboundary environmental impact.



- The Administrative Court rendered the decision 24.06.2016, which contested the legality of the adopted decision due to the non-implementation of the Espoo procedure and incomplete explanation of the decision.
- Procedure had to start from the beginning.
- The current situation:
1st phase of scoping was completed; notification regarding the Espoo Convention was sent to Romania, who decided to participate in the project and now we are waiting the submission of a new Study.



Why is this case interesting for the aspect of public participation?

- Despite its obligation, the Ministry did not implement the Espoo Procedure;
- Between 2014-2016, the Ministry was obliged to inform the Implementation Committee in Geneva about the following steps the Republic Serbia would take regarding the realization of this project;
- **The Court decision was rendered three years after the legal process started (due to the inefficiency of the judicial system);**
- The procedure started during the mandate of one Ministry and continued during another Ministry's mandate (due to frequent changes of government);
- Procedure had to start from the beginning.



Conclusion

EIA procedure lasts 4-6 months in Serbia, sometimes longer depending on the quality of study and data; with the Espoo the procedure lasts up to one year and longer, because every memo (notification) that is sent to the neighboring country /countries must pass through the Ministry of Foreign Affairs and must be signed by the Minister.

The reasonable deadline which Serbia gives to the other country/countries is 4 weeks, but this can be prolonged if necessary, without any consequences.

The main reason why something is not carried out in accordance with the law and agreements, inciting public reaction, is the unplanned time period for the realization of bigger investment projects.



Thank you for attention!