

# Policy Recommendations for Assessing Environmental Impacts



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WWF - with partners in Albania, Bosnia and Herzegovina, Montenegro, Serbia, and Turkey - is implementing the [Civil Society Acts for Environmentally Sound Socio-Economic Development \(CO-SEED\) project](#). CO-SEED is contributing to the sustainable management of natural resources by supporting improvements to regulatory frameworks and ensuring the decision-making process for new infrastructure is more participatory and transparent. CO-SEED is focusing on improving the process of environmental impact assessments (EIAs) and strategic environmental assessments (SEAs) by creating a network of informed civil society organizations (CSOs) across the region and increasing media interest in sustainable, environmentally friendly development. As part of this process CO-SEED and its regional network of civil society partners conducted a detailed review of infrastructure permitting policies and practices and the levels of civic engagement in decision-making. Based on this analysis, CO-SEED created country-specific recommendations for improvements, aligned with applicable European Union directives. This document contains the set of recommendations for Bosnia and Herzegovina.

## Introduction

Bosnia and Herzegovina is complex country, with high level of decentralization.

In accordance with the Constitution Act, Bosnia and Herzegovina (the state) have jurisdiction over international affairs; including ratification and implementation of international treaties. On the other hand the entities of the Federation Bosnia and Herzegovina and Republika Srpska, as well as Brčko District, have exclusive jurisdiction for the adoption of environmental legislation.

## Legislation adopted by two entities and Brčko District

Three units in Bosnia and Herzegovina (Federation of Bosnia and Herzegovina, Republika Srpska, and Brčko District) are fully responsible for the adoption and implementation of environmental legislation. In most situations, all three units work together. Legislation is in most cases harmonized, however there are also cases where differences exist. Where applicable, recommendations are given jointly, for all of three units.



## International Agreements

Bosnia and Herzegovina (the state) has jurisdiction over and is responsible for the ratification of and accession to international agreements related to EIAs and SEAs. These include:

- Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention)<sup>1</sup>: ratified by Bosnia and Herzegovina
- Protocol on Strategic Environmental Assessment<sup>2</sup>: Bosnia and Herzegovina has started the procedure for ratification of SEA Protocol, but the procedure hasn't been completed

***Policy recommendation 1. Competent bodies of Bosnia and Herzegovina should continue to work towards ratification of the SEA Protocol to achieve the status of a Party to the Protocol.***

Keeping in mind the significance of public participation in processes of EIAs and SEAs, it is important that Bosnia and Herzegovina accede to the Aarhus Convention.<sup>3</sup>

As of summer 2017, Bosnia and Herzegovina does not have a focal point to the Aarhus Convention. Nor has the country prepared a Report on the status of implementation of the Convention. However communication with the Convention Secretariat, including regular reporting, is an international obligation of Bosnia and Herzegovina.



***Policy recommendation 2. Competent bodies of Bosnia and Herzegovina should nominate a Focal Point and prepare a regular Report on the implementation of the Convention as soon as possible.***

***Bosnia and Herzegovina should provide a mechanism for the inclusion of civil society organizations (CSOs) in the reporting process, and to ensure a mechanism for CSOs to prepare an “alternative report on implementation status of the Aarhus Convention”.***

## **Definitions**

Federation Bosnia and Herzegovina (FBiH), Republika Srpska (RS) and Brčko District (BD) of Bosnia and Herzegovina have transposed only a limited number of definitions. Transposed definitions are to be in compliance with the ones prescribed by the Espoo Convention and relevant EIA Directive.

<sup>1</sup> The Decision of the Presidency was published in the Official Gazette of BiH – International Agreements – No 8/09

<sup>2</sup> Decision of the Presidency on accession to the Aarhus Convention is published in “O. G. BiH No 10/08 – International agreements

**Policy recommendation 3. F BiH, RS and BD must introduce in their respective Laws on Environmental Protection the definitions for:**

**"Parties"**

**"Party of Origin"**

**"Affected Party"**

**"Concerned Parties"**

**"Proposed Activity"**

**"Transboundary Impact"**

**"Competent authority"**



**Policy recommendation 4. F BiH, RS and BD should introduce in their laws more precise provisions on access to information and public participation in the screening processes of EIAs.**

### **Environmental impact study**

As the central document within EIA processes, the Environmental Impact Study (EIS) is important. It has to be prepared in accordance with high standards, while also being understandable to a wider public.

F BiH and RS have prescribed a system of license approvals for certain consulting companies that meet these prescribed conditions. BD accepts qualifications of consultant companies from both entities.

Licenses may be withdrawn, but only for formal reasons. A bad quality EIS is not included as legal grounds for the withdrawal of a license. A project developer is free to select a consulting company from the list of licensed companies. As the project developer selects the consulting company and enters into a contract with that company; the company has an incentive to look for any option to protect the interest of the project developer. Environmental interests are not the priority.

**Policy recommendation 5. F BiH and RS should introduce a mechanism that the license of a consultant company – EIS developer- may be withdrawn in cases of repeated low-quality EISs.**

**Policy recommendation 6. The selection of the consultant company should be made by an independent body on the basis of criteria for the “best protection of the environment”.**

## Revisions to an EIS.

Revisions to an EIS are prescribed as an obligation of ministries (in case of BD, the Administrative unit in charge of the environment). There is no detailed rule on how this job is to be done. Keeping in mind that an EIS is complex document, based on a high level of expertise, it's necessary to provide high-level experts to make revisions.

***Policy recommendation 7. Ministries should established a pool of high-level experts and on a “case by case” basis nominate a Revision Committee composed of such experts. The costs for the work of the Revision Committee is to be paid by the project developer.***

## Monitoring of EIS recommendations

Each EIS contains a part that addresses measures to be implemented in order to minimize negative environmental impacts. However, the mechanism for monitoring the implementation of such measures is not defined precisely.



***Policy recommendation 8. FBiH, RS and BD should introduce provisions on how to provide efficient monitoring of the implementation of measures aimed at minimizing negative environmental impacts, including urgent measures in cases when negative impacts may result in great harm.***

***Policy recommendation 9. The process for monitoring the implementation of measures should include an active role for CSOs and other interested parties***

## SEA procedures

Republika Srpska adopted a “new” Law on Environmental Protection in 2012. Through this Law, RS established solid legal ground for the implementation of SEAs and this legislation is mostly consistent with the relevant SEA Directive. The situation in FBiH and Brčko District is different. There have been no new legal acts in FBiH and BD, and generally existing provisions related to SEAs are very poor. Furthermore, FBiH, RS and BD have transposed only a limited number of definitions, and those definitions that are transposed are not in compliance with those prescribed by the SEA Protocol and SEA Directive. On the other hand, RS's legislation includes a definition of Plans and Programs, as well as of Strategic Environmental Assessments. These definitions mostly correspond with those prescribed by the SEA Protocol and SEA Directive.

***Policy recommendation 10. FBiH, RS and BD must introduce into their respective Laws on Environmental Protection definitions for:***

***"Parties"***

***"Party of Origin"***

***"Affected Party"***

***"Plans and Programs"***

***Strategic Environmental Assessment"***

***"Environmental, including Health Effects"***

As stated above, in RS the situation related to other SEA provisions is good. In FBiH and BD however, there are only a few provisions that prescribe in very general terms obligations for undertaking SEAs. Currently, FBiH is developing a new Law. This draft Law, which is available, will make significant improvements related to SEAs. Once adopted by the Parliament it will form a solid legal basis for SEA process implementation. There is no information as to whether or not BD has started procedures to adopt a new Law.

***Policy recommendation 11. FBiH should continue the process of adopting its new Law, including full transposition of EU provisions related to SEA. After adoption of the Law, FBiH should enact bylaws necessary to ensure implementation of SEA processes.***



***Policy recommendation 12. BD should start the procedure of amending existing laws, or the adoption of a new law, to ensure legal grounds for implementation of SEAs.***

## **Concessions**

Even though the system for granting concessions is not a part of EIA or SEA procedures, there is a need to address this issue in this document. Namely, entire process of EIA and SEA has a specific goal – to minimize negative environmental impacts of projects, plans and programs. There is a threat that implementing an EIA is “too late”, keeping in mind that by the EIA stage a project developer already has certain rights on the basis of a concession contract. The main characteristics of concessions are that concession holders have the right to utilize “nature resources” for profit. Therefore once a location for a development has been defined in a concession, this may present a huge problem that cannot be solved through an EIA process.

***Policy recommendation 13. The process of granting concessions has to be more transparent and consider more strongly environmental concerns. As public participation includes participation of interested parties from a very early stage, CSOs and other interested parties have to take a more active role in process of granting concessions.***



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