



SUMMARY OF THE STUDY

Environmental impact assessment: *conditions and implementation experience in Ukraine*



Rivne, 2021

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This document is prepared as a part of the project “Strengthening of democratic environmental procedures in Ukraine” within the frame of the Environmental Policy and Advocacy Initiative in Ukraine that has been implemented by the International Renaissance Foundation and enabled by the financial support from Sweden.

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SUMMARY

Environmental impact assessment (EIA) is a procedure aimed to prevent damage to the environment, ensure environmental safety, protection, and rational use and restoration of natural resources when making decisions on economic activity that may have a significant influence on the environment.

Introducing the environmental impact assessment procedure in Ukraine is a significant step forward. However, many shortcomings capable of undermining this progressive idea remain.

During the study, Ecoclub's goal was to obtain objective information about the conditions of environmental impact assessment (EIA) procedure in Ukraine and draft recommendations for its improvement, so future managerial and political decisions are fairer.

In order to achieve this we have analyzed:

1. The legislation on state bodies, designated to participate in the EIA procedure.
2. Financial and personnel capacity of authorities' departments in 24 oblast administrations, which work in the field of EIA.
3. Decisions made in the EIA field: positive conclusions, refusals, and access to information.
4. The state environmental monitoring system was analyzed on the basis of regional reports from 9 oblasts of Ukraine (Volyn, Kyiv, Lviv, Odesa, Poltava, Rivne, Ternopil, Kharkiv, Mykolaiv) for 22 years (1998–2019 years).
5. Judicial practices in court cases on the application of the Law of Ukraine "on EIA".

CONCLUSIONS

The current legislation for the EIA procedure provides broad powers to local authorities, responsible for EIA. However, the possibility of their practical and effective applications *is negated to a large extent by the next factors:*

- Limited personnel, financial and expert capacity of the designated bodies, which are objectively unable to provide a qualified assessment of an EIA report, which in turn creates significant dependence on the content of the report commissioned by an interested economic entity.
- Designated regional authorities do not represent the interests of local communities, affected by the economic activity in question.
- Environmental and natural resources departments do not act independently, as they are a part of local branches of the governmental bodies.

Conclusions from the analysis of the capacity and activities of structural departments of local administrations in the field of EIA:

- The number of conclusions on EIA reports issued per year varies between oblasts from 38 in Luhansk oblast to 227 in Lviv oblast.
- Preparation of EIA reports in local administrations is performed by 2–8 people and the number is not always proportional to the quantity of EIA conclusions issued in the oblast.
- Some local administrations point at the need to involve external experts and as of August 2021 the State Register of experts, which has to be managed by the Ministry for environmental protection, is not functioning.
- As the provision on the expert commission on EIA does not exist, it is impossible to involve both certified and external experts in the preparation of a conclusion on EIA.
- The state budget allocates funding only for salaries of employees, who work on the conclusions on EIA reports. Additional funds for other EIA-related activity (verification of information in the report, involving additional experts) are not allocated.

A significant part of the conclusions on EIA issued by departments of local administrations contain the next shortcomings:

- The information about the type, main parameters, and locality of a planned activity are not unified.
- Not all conclusions on EIA include the information about reference values of emissions of pollutants.
- It is often indicated that the expected influence on the environment is less than the limits without any real measurements and calculations, and the part of assessed parameters of the activity are indicated with low accuracy.
- Some conclusions present the content about the planned environmental protection measures in a descriptive way with any detail, which makes it impossible to monitor implementation of the measures after the activity starts.
- The conclusions do not include the information about acceptance or rejection of the comments from civil society.
- The conclusions on EIA state without any supportive documents that on the site of a planned economic activity there are no historical and environmental protected areas.
- The volume of waste produced during a planned activity is not provided.
- Conclusions on EIA do not include information about the influence on flora and fauna at all or include only a formal note, that there is no flora and fauna on a site of a planned activity.

The monitoring of the quality of the environment in the regions is necessary to objectively assess the safety of living in one or another region and to adopt decisions on the increase of polluters that operate there.

In the study, experts have analyzed “Regional reports on environment quality” in 9 regions of Ukraine for the last 22 years. During the study, 160 of 198 planned reports have been analyzed. They were received by the NGO Ecoclub from 10 sources, which cost 7 295 UAN, 35 kopecks. The other 38 reports were not found.

Having analyzed 160 regional reports, experts have discovered:

- Not all local administrations had provided access to the environmental reports for civil society.
- There is no general structure of the regional reports, monitoring is conducted differently in different regions, which makes it impossible to compare the results of different reports.
- The reports are missing foundation for quantity of monitoring posts and of samples.
- Usually, the reports present only a result of monitoring, i.e. “satisfactory/non-satisfactory”, “meets/does not meet the norms” while the actual data of monitoring or number of tests, collected samples, and their deviation from the norms are missing.

RECOMMENDATIONS

In order to improve an EIA procedure it is necessary to settle the next issues:

- Define the subject and submission deadlines for additional information, the possibility to extend the duration of public consultations in case of providing the information on issues that have to be included in the report, but are submitted after the hearings are closed and were not considered by the public.
- Provide the designated local body with the right to collect the necessary for EIA information on their own.
- Define reasons to regard the activity as unacceptable.
- Develop normative acts and/or methodical guidelines on the application of the powers to prescribe measures for mitigation, prevention, damage compensation, reduction, restriction of the influence of planned activity on the environment, conduct post-project monitoring, and create a list of best available technologies and methods by designated local bodies.
- Detail the reasons for withdrawal of the positive conclusion on EIA reports through a court appeal.

- Investigate options for the delegation of the decision on the acceptance or rejection of the planned activity *to some of the next bodies*:
 - Central executive body on environmental protection;
 - Local branches of such a central executive body (in case they are created);
 - Departments of local executive bodies in case if their legal status is changed in a way that significantly increases their independence in relation to the conclusions on EIA procedure.

In order to improve the operation of departments of local administrations, responsible for EIA:

- Develop and adopt the Provision on expert commission on EIA, qualification requirements to experts, ensure responsibility of experts and put in order the management of the EIA registry of experts.
- Establish expert commissions on EIA, members of which have to be appointed for 3 years by a designated central executive body and by local designated bodies out of the EIA registry of experts, which is managed by the designated central body.
- Address the issue of staffing the departments of local administrations that work with EIA, basing on their workload and the quantity of processed EIA reports.
- Ministry for environment shall adopt the methodology for publication of the information on EIA on the web pages of departments of local administrations, which are responsible for EIA, and expand the list of ways for dissemination of the information on public consultations at various electronic resources.
- Ensure the responsibility of experts involved in the EIA preparation for the quality of their conclusions.
- Present and submit as part of conclusions and rejections on an EIA report the generalized information about inclusion or rejection of the comments provided by civil society, including the justification of such decisions.
- During the preparation of conclusions on EIA to conduct additional monitoring, data verification, and expertise to verify the information provided by an economic entity, including an EIA report.

Recommendations to improve EIA reports:

- Unify the submission of the information to an EIA report on the type, main parameters, and location of a planned activity.
- Unify the submission of the information to an EIA report on the impact on the environment. Specify which particular information shall be annexed to the report and in which form.
- An EIA report shall include the volume of waste generated by a planned activity in numerical form: total value and amount of each particular type of waste.
- Indicate reasons for the conclusion that the activity does not cause a negative influence on protected areas; include supportive documents or conduct necessary measurement, research, and expertise, or involve relevant experts.
- Provide supportive documents and/or results of research conducted by authorized bodies, the information about the absence of historical, cultural, and environmental protected areas on the site of planned activity.
- Specify and provide supportive documents for envisaged environmental protection measures and landscape improvements.
- Indicate accurate numerical values with the least possible error in conclusions on EIA instead of approximate data.
- Specify compensatory measures in conclusions on EIA, define criteria for their completion, and quantified requirements.
- Substantiate conclusions on the influence or absence of such an influence on climate.

In order to support environmental monitoring in regions:

- Ensure that the results of monitoring observations are comparable in both time and space.
- Ensure continuity of observations at monitoring sites.
- Provide free online access to the monitoring data in a convenient form (to all monitoring measurements together, different types of research of collected samples should be freely accessible online).