

**MODUL 1: TRAINING  
STRATEGY SEA/EIA,  
3 year action plan 2015-2017**

**EIA SCREENING**

**5 june 2015**

Ministry of Environment and Spatial Planning  
of the Republic of Slovenia

Vesna Kolar Planinšič, Msc.



# I. Ex- ante conditionality

- B.6

- 1. Arrangements for the effective application of EIA and SEA Directive**

- Revision of Environmental Act
- Revision of EIA Decree 2014
- Training Strategy

- 2. Arrangements to ensure the quality of the information used in the EIA process**

- 3. Arrangements to give access to justice for the public concerned, including NGO**



## II. EIA Directive

- Council Directive 85/337/EEC of 27 June 1985 has been substantially amended several times
- Directive 2011/92/EU of the European Parliament and of the Council of 13 Decemebre 2011 on the assessment of the effects of certain public and private projects on the environment (codification) (OJ L 26, 28.1.2012)
- Amended by
- Directive 2014/52/EU of the European Parliament and of the council of 16 April 2014 (OJ L 124, 25.4.2014)



## II. EIA Directive

- (8) Projects belonging to certain types have significant effects on the environment and those projects should, as a rule, be subject to the systematic assessment.
- (9) Projects of other types may not have significant effects on the environment in every case and those projects should be assessed where Member States consider that they are likely to have significant effects on the environment.
- (10) Member states may set thresholds or criteria for the purpose of determining which of such projects should be subject to assessment on the basis of the significance of their environmental effects. Member States should not be required to examine projects below those thresholds or outside those criteria on a case by case basis.



## II. EIA Directive

- (11) When setting such thresholds or criteria or examining projects on a case by case basis, for the purpose of determining which projects should be subject to assessment on the base of their significant environmental effects, MS should take into account of the relevant selection criteria set out in Directive (Annex III). In accordance with subsidiarity principle, the MS are in the best position to apply those criteria in specific instances.



## II. EIA Directive

- (27) The screening procedure should ensure that an environmental impact assessment is only required for projects likely to have significant effects on the environment.
- (28) The selection criteria laid down in Annex III, which are to be taken into account by MS , should be adopted and clarified. For instance, experiences has shown that projects using or affecting valuable resources, projects proposed for environmental sensitive location, or projects with potentially hazardous or irreversible effects are often likely to have significant effects on the environment.

# Procedural steps of EIA process

## Guidance on EIA Screening, 2001

- Project preparation
- Notification to Competent Authority

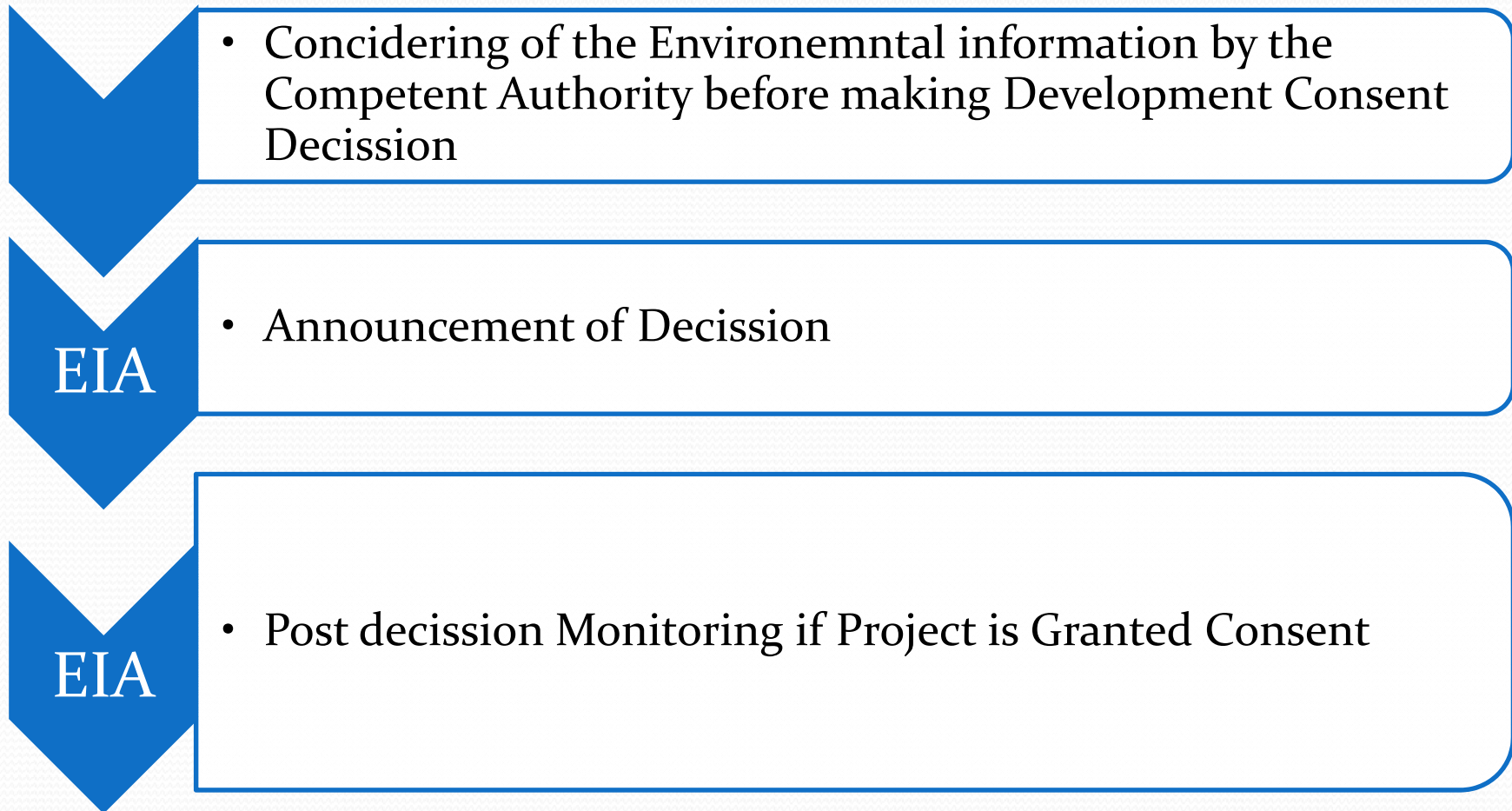
EIA

- Screening
- Scoping
- Environmental Report

EIA

- Submission of EIA report to Competent Authority
- Review on Adequacy of the Environmental Report
- Consultation with Statutory Environmental Authorities, other interested Parties and the Public

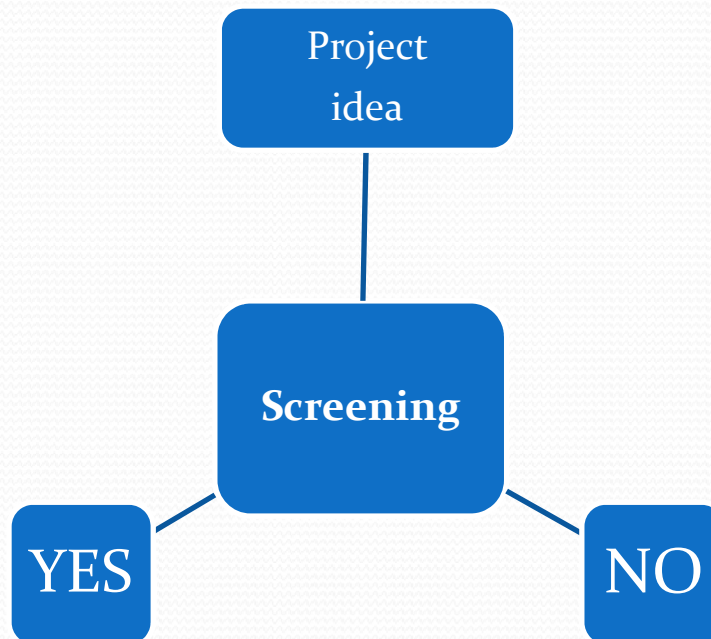
# EIA Process in EIA Directive





# 1. Step of EIA process: Screening as regulated by Article 4 Directive 2011/92

- The competent authority makes a decision , whether EIA is required.
- The screening decision must be recorded and make public (Art.4).
- SCREENING





# Art. 4 : Screening

- Two types of projects:
- Projects (and their changes or extensions) listed in Appendix 1 – EIA IS MANDATORY
- Projects listed in Annex II for which EIA is discretionary
- To be determined through
  - a.) Case by-case examination or
  - b.) Thresholds or criteria set by Member States, or
  - c.) Combination of both approaches.

# Screening EIA

- When taking the screening decision
- the competent authority should apply the selection criteria under **Annex III** of the EIA Directive.

# III. Pilot EU /Case law

- **Pilot EU towards Slovenia on EIA Screening and thresholds**
- Case Law (Ruling of the Court of Justice):
- The fundamental objective of EIA (C-287/98, Linster)
- C-72/95 Kraaijeveld and Others, C-2/07 Abraham and Others, C-75/08 Meller, C-427/07 Commission v Ireland): Although the Member States have thus been allowed a measure of discretion in specifying certain types of projects which will be subject to assessment or to establish the criteria and/or thresholds applicable, the limits of discretion are to be found in the obligation of Art 2(1) of EIA directive that project likely, by virtue inter alia of their nature, size and location, to have significant effects of the environment are to be subject to an impact assessment.
- Even a small scale project can have significant effects on the environment , if it is in a location where the environmental factors set out in Art. 3 of EIA Directive, such as fauna, flora, soil, water, climate or cultural heritage, are sensitive to the slightest alternation.
- Etc.

# IV. Revised Environmental Protection Act

- **New Art 51.a (Screening/ predhodni postopek)**
- (1) Nosilec nameravanega posega v okolje mora od ministrstva zahtevati, da ugotovi, ali je za nameravani poseg v okolje treba izvesti presojo vplivov na okolje in pridobiti okoljevarstveno soglasje. Ministrstvo lahko začne postopek predhodne presoje tudi po uradni dolžnosti.
- (1) **Screening starts on:**
- **A.) Application by the project proponent**
- **B.) Start by ministry on the base of „duty action“.**

# IV. Revised Environmental Protection Act

- Zahteva iz prejšnjega odstavka lahko vsebuje tudi zahtevo za pisno informacijo, ki jo ministrstvo pripravi v skladu z 52. členom tega zakona, če ugotovi, da je za nameravani poseg treba izvesti presojo vplivov na okolje in pridobiti okoljevarstveno soglasje.
- **If the proponent apply for screening, he can also apply for the written information about the main scoping issues and the ministry should prepare, if screening decision is positive, and EIA should be prepared.**
- (3) Ministrstvo lahko nosilca nameravanega posega v okolje pozove, da v določenem roku zahtevo iz prvega odstavka tega člena dopolni. Če nosilec nameravanega posega v določenem roku zahteve iz prvega odstavka tega člena ne dopolni, se šteje, da je od nameravanega posega odstopil, ministrstvo pa postopek ustavi.
- **Ministry can ask the proponent for additional information needed for screening. Ministry give the certain reasonable time period for preparartion of additional information. If the developer don' t present additional information on time, the ministry could stop with procedure,**

# IV. Revised Environmental Protection Act

- Ministrstvo sklep o ustavitvi postopka objavi na enotnem državnem portalu e-uprava in na svoji spletni strani, pošlje pa ga tudi pristojni inšpekciji in občini, na območju katere se nahaja nameravani poseg.
- **The ministry announced the Decision on stoping the procedure on administrative web page „e uprava“ and send to the attention of inspectors and local community located on the project area.**

# Cooperation with other ministries and organisations in Screening


- (4) Pri ugotovitvi iz prvega odstavka tega člena ministrstvo upošteva merila, ki se nanašajo na značilnosti nameravanega posega v okolje, njegovo lokacijo in značilnosti možnih vplivov posega na okolje. Zaradi izvedbe ugotovitve iz prvega odstavka tega člena ministrstvo lahko zaprosi ministrstva in organizacije iz tretjega odstavka 52. člena tega zakona, da v 21 dneh od prejema zaprosila pošljejo pisno mnenje o tem, ali je za nameravani poseg treba izvesti presojo vplivov na okolje s stališča njihove pristojnosti.
- **In the decision the Ministry is taking into account criteria from Annex III on project specifics, location and possible environmental effects.**
- **Ministry can ask the ministries and organisations for written opinion in 21 day .**





- **PROCEDURE**

- (5) Ministrstvo o ugotovitvi iz prvega odstavka tega člena izda sklep v dveh mesecih po prejemu popolne zahteve. Pritožbo zoper sklep lahko poleg nosilca nameravanega posega v okolje vloži tudi nevladna organizacija iz prvega odstavka 153. člena tega zakona. Pritožba ne zadrži izvršitve sklepa.
- Če je s pravnomočno sodbo ugotovljeno, da mora nosilec nameravanega posega za njegovo izvedbo pridobiti okoljevarstveno soglasje, poseg pa je že izvedel, mora nosilec posega vložiti vlogo za pridobitev okoljevarstvenega soglasja v skladu s 57. členom tega zakona, ministrstvo pa mu v okoljevarstvenem soglasju naloži izvedbo omilitvenih ukrepov tako, da se preprečijo, zmanjšajo ali odstranijo škodljivi vplivi posega na okolje.
- **(5) Ministry has to prepare the final decision in two months from the proper information by the project developer.**
- **The decision could be appealed by project developer or NGO, which act in the public interest .**
- **If the court decided that EIA should be prepared, the project developer is obliged to prepare EIA report and apply for EIA decision. Ministry is obliged to decide on mitigation measures.**

- 
- Information is public available
  - (6) Ministrstvo sklep iz prejšnjega odstavka objavi na enotnem državnem portalu euprava in na spletnih straneh, pošlje pa ga tudi pristojni inšpekciji in občini, na območju katere se nahaja nameravani poseg.
  - **(6) Ministry inform the public at the national administration page „euprava portal“ and on web pages, and send it to inspection and local community.**

Če je za izvedbo nameravanega posega iz tretjega odstavka prejšnjega člena treba pridobiti gradbeno dovoljenje v skladu s predpisi, ki urejajo graditev objektov, in nosilec posega k zahtevi za njegovo izdajo ne priloži okoljevarstvenega soglasja za nameravani poseg, mora pred izdajo gradbenega dovoljenja pristojni upravni organ ugotoviti, ali je ministrstvo izdalo sklep, da za nameravani poseg v okolje presoja vplivov na okolje ni potrebna. Če pristojni upravni organ ugotovi, da ministrstvo za nameravani poseg v okolje ni izdalo sklepa, da za ta poseg v okolje presoja njegovih vplivov na okolje ni potrebna, se v postopku izdaje gradbenega dovoljenja šteje, da okoljevarstveno soglasje ni pridobljeno, vloga za izdajo gradbenega dovoljenja pa se zavrne.

**In the case that building permit for the project is needed the public administration is obligated to check :**

- **A.) EIA decision or**
- **B.) Screening decision.**
- **If non the building permit is refused.**
  
- (9) Vlada predpiše vrsto in obseg podatkov iz drugega odstavka tega člena, ki jih mora nosilec posega nameravanega posega v okolje predložiti ministrstvu v zahtevi iz prvega odstavka tega člena, in podrobnejša merila iz četrtega odstavka tega člena.

**Government prescribe the data for application of the project developer (Decree on EIA)**

## Art. 51 b Screening in national spatial plans

- V postopkih priprave državnih prostorskih načrtov v skladu s predpisi, ki urejajo umeščanje prostorskih ureditev državnega pomena v prostor, se predhodni postopek iz prejšnjega člena opravi v fazi in roku, ko ministrstvo v skladu s 46. členom tega zakona odloča, ali so vplivi plana na okolje sprejemljivi.
- **In the processes of national spatial plans preparation, the screening is prepared in the phase of acceptance of national spatial plan on the environment.**
- Investitor priprave državnega prostorskega načrta (v nadaljnjem besedilu: investitor) zahteva od ministrstva, da to na podlagi študije variant s predlogom najustreznejše variante ali rešitve oziroma predloga državnega prostorskega načrta ugotovi, ali je za nameravani poseg v okolje treba izvesti presojo vplivov na okolje in pridobiti okoljevarstveno soglasje v skladu s prejšnjim členom. Zahteva investitorja lahko vsebuje tudi zahtevo za pisno informacijo, ki jo ministrstvo pripravi v skladu z 52. členom tega zakona, če ugotovi, da je za nameravani poseg treba izvesti presojo vplivov na okolje in pridobiti okoljevarstveno soglasje.
- **Screening could be based on Study of alternatives/ Draft national spatial plan ( early stage)**

Thanks

Hvala

