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2009

LAW NO.03/L-015 ON ENVIRONMENTAL STRATEGIC ASSESSMENT

LAW No. 03/L-015

ON ENVIRONMENTAL STRATEGIC ASSESSMENT

Assembly of Republic of Kosovo,

In support of Article 65, point (1), of the Constitution of the Republic of Kosovo,

With aim of creating the Kosovo environmental standards in accordance with those of European Union's

Approves

LAW ON ENVIRONMENTAL STRATEGIC ASSESSMENT

CHAPTER I

GENERAL PROVISIONS

Article 1

Purpose and the subject

1. The purpose of this Law is to ensure through strategic environmental assessment of the plans and programs, high level for protection of the environment and human health.

2. This Law determines the conditions, form and procedures for assessment of impacts on environment, of the certain plans and programs (hereinafter: SEA) through integration of the environmental protection principals in the procedure of preparation, approval and realization of plans and programs.

Article 2

Definitions

Used expressions have the following meanings:

"Plans and programs" all plans and programs, including also their modifications, which are prepared from the central or local level, and which ones are approved by the competent authorities of these levels.

"Strategic Environmental Assessment (SEA)" means preparation of environment report, carrying out of consultations, taking into account environment report and consultations results in the decision-making procedures and providing approach to information for public;

"Strategic Environmental Assessment Report" attached part of the plan or program documentation containing necessary information in Article 4 and Annex I;

"Interested Public" public in which plans or programs have or could have an impact;

"Bodies and interested organizations" bodies of the central or local level that are in accordance with their competences, are obligated or they have interests to take a decision which has to do with environmental protection;

"Ministry" Ministry of Environment and Spatial Planning;

"Municipality" body of local governance;

"Minister" Minister of the Ministry of Environment and Spatial Planning.

Article 3

Principals of SEA

1. Sustainable development principle

With processing and including the essential environmental aspects for preparing and approving the certain plans and programs and with confirmation of the conditions for protecting the material goods, cultural heritage and nature values, spaces, biodiversity, wild **plants and animals** and authentic ecosystems, respectively rational exercises of the nature recourses, contributes in sustainable development.

2. Integrity principle

Environmental protection policy which is realized through plans and programs is based on insertion of the conditions for environmental protection, respectively on conservation and sustainable exercises of the nature resources and biodiversity, for the inter-sections plans or programs.

3. Tendance principle

Each activity should be executed in that way, that, before approval should prevent or decrease the environmental negative impacts of the certain plans or programs, to ensure the rational exercise of the nature sources and to decrease the risk of human health and material goods.

4. Principles of hierarchy and coordination

Impact assessment of a plan or program is accomplished in the central level for plans or programs which are prepared on central and local level. On the SEA procedure of plans or programs, increased level of transparency for decision-making, is provided with reciprocal coordination of the competent bodies and organizations and other stakeholder organizations interested on procedure of issuing the consent for SEA, through consultation, respectively announcement and opinions given for those plans and programs.

5. Principle of public information

in order to inform the public for appointed plans and programs as well as for their likely significant environmental effects and in order to provide full transparency during preparation, issuing and approval procedure of plans and programs, before decision-making, and after approval, public, must have approach on information which have to do with these plans and programs and their modifications.

Article 4

Scope

1. SEA shall be carried out for plans or programs which are likely to have significant environmental effects.
2. Drafting of SEA report is obligatory for plans and programs from spatial planning and city planning field, on land use, agriculture, forestry, fisheries, hunting, energy, industry, mines, traffic, waste management, water management, telecommunication, tourism, which give a frame for future development projects, which undergoes environmental impact assessment according to the Environmental Impact Assessment Law, as well as, plans and programs which, taking into the consideration location in which they realize, can have an effect on nature protected zones, on nature habitats and in wild flora and fauna.
3. For plans and programs from paragraph 1, of this article, with which is foreseen also the utilization of small surfaces on local level or in case of modification of the plans and programs, which do not require a regular procedure for ratification as well as for plans and programs, which are not appointed on paragraph 2, of this article, decision for SEA takes the owner of plan or program, if according to the criteria determined in this Law, confirms that likely significant effects on environment exists.
4. SEA should not be accomplished for plans and programs the soil purpose of which is to serve national defense or civil emergency, and for financial and budget plans and programs.

Article 5

General obligations

1. For plans and programs which undergo the SEA procedures according to the article 4, paragraphs 2 and 3, of this Law, preparation of SEA report, is obligatory.

4. The bearer of a plan or program can not follow a plan or program in the further procedure for approval, before getting the consent for SEA report, preliminary, from Ministry.

Article 6

Competent bodies

1. The bearers of plans or programs are bodies of central and local level.

2. Competent body for reviewing the SEA report is Ministry.

CHAPTER II

PROCEDURE FOR ENVIRONMENT STRATEGIC ASSESSMENT

Article 7

1. SEA shall be carried out in the phase of preparation of a plan or program which can have an environment effect and before its adoption from competent body.

2. Procedures of SEA content the following phases:
 - 2.1. decision making for need of preparation of the SEA;

 - 2.2. determination of the volume and content of the SEA report;

 - 2.3. decision making for issuing the consent or refusal on SEA report;

3. The owner of plan or program is obligated to carry out SEA in the same time of drafting the plan or program and to obtain from Ministry, the consent for SEA report.

Article 8

Decision making on need to prepare SEA

1. A need to prepare SEA for plans and programs from article 4, paragraph (3) of this Law will be verified through case-by-case examination, supported on criteria for verification of environmental impacts.

2. Criteria for determining effects on environment are as follows:

2.1. criteria regarding plans and programs:

2.1.1. importance of a plan and program for environmental protection and sustainable development;

2.1.2. problems of environmental protection of a plan and program and likely effects on: air, soil, climate, ionizing and non-ionizing radiation, noise and vibrations, animal and plant world, nature habitats and biodiversity, nature protected goods, inhabitants and human health, cities and different settlements, cultural-historic heritage, and other objects, other created values;

2.1.3. level of effect of a plan and program on other plans and programs, including other different hierarchy structures;

2.1.4. level in which with plan and program set up frame for project realization on location aspect, nature, volume and functional conditions or regarding to resource location.

2.2. criteria regarding to effects:

2.1.2. the probability, intensity, complication, reversibility;

2.2.2. time dimension (duration, participation, frequency);

2.2.3.the magnitude and spatial extent, location, geographic area, size of the population likely to be affected, the trans-boundary nature of the effects;

2.2.4. the cumulative and synergic nature of the effects;

2.2.5. the risk to human health and the environment (e.g. due to accidents);

2.2.6. effects on nature fields, cultural or other importance, special natural characteristics, protected zones, statues of which is given on national or international level, cultural - historic heritage, zones with high population density, zones with different protecting regimes;

2.2.7. risked zones, exceeded environmental quality standards or limit values, intensive land-use, increased capacity of environment, especially sensible and rare zones, ecosystems, species of plants and animals.

Article 9

Proposal decision for preparing the SEA report

1. The owner of a plan or program is obligated that the decision for drafting of SEA report to take in the same time of preparing the plan and program.

2. The decision to draft the SEA report is given from the bearer of a plan and program, preliminary after the approval by Ministry.

Article 10

Content of the proposed decision

1. Proposed decision for preparing the SEA report from article 9, of this Law, contains the following data, for:
 - 1.1. the general information for proposed plan and program;
 - 1.2. bases for plan and program development;
 - 1.3. the zone or territorial area: national, regional, local, small surface, in which plan and program shall draft;
 - 1.4. reasons for SEA regarding to the criteria from article 8, of this Law;
 - 1.5. sort of plan and program for which the SEA report shall draft;
 - 1.6.issues and problems regarding to the environment, which will be treated on a plan or program;
 - 1.7. selection and obligation of the owner for SEA report (proposing the methodology, content of the professional team, timeframe of drafting etc.);
 - 1.8. form of participations of institutions, organizations and public procedures on drafting and reviewing the SEA report and
 - 1.9. other necessary data to draft the SEA report.
2. For plans and programs for which do not need drafting of report for SEA, owner of plan or program take a decision which content the following:

- 2.1. kind of plan and program, cause and reasons why the SEA report is not need to be drafted;
- 2.2. criteria based on which is assessed that it is not exist a likely significant effects on the environment;
- 2.3. other relevant data based on which is decided, not to draft the SEA report.

Article 11

1. The bearer of the plan and program, his proposed decision will show to the Ministry for an opinion.
2. Ministry, before giving its opinion is obligated to have a consultation with public, bodies and other organizations.
3. Time frame for the decision from paragraph 1, of this article, is within thirty (30) days, from the day of proposed decision.
4. If the decision is not given within the time frame, regarding to paragraph 3 of this article, it is considerable that there are no remarks on proposed draft decision.

Article 12

1. The bearer of a plan and program within fifteen (15) days, from expiry day for given their opinion based on article 11, paragraph 3 of this Law, takes a decision to draft, or not to draft a SEA report.
2. Decision from paragraph 1, of this article, is a content part of decision for drafting a plan and program and announce it on public information institutions.

CHAPTER III

REPORT OF SEA

Article 13

1. In the cases when SEA is required, from article 4 of this Law, the SEA report is drafted, in which are covered likely significant environmental effects during the plan and program implementation and reasonable alternatives, taking into the consideration objectives and geographic involvement of a plan or program.

2. Besides data from paragraph 1 of this article, the SEA report contents and following data:

2.1. the outline of the contents, main objectives of a plan and program and relationship with other relevant plans and programs;

2.2. description of the current state of the environment and the likely evolution thereof without implementation of the plan and program;

2.3. the environmental characteristics of areas likely to be significantly affected;

2.4. any existing environmental problems which are relevant to the plan and program, including, in particular those relating to any areas of a particular environmental importance, such as wild plant and animal habitats, in their protecting aspects, culture and nature protected especial areas.

2.5. the environmental protection objectives established at national or international level, which are relevant to the plan or program and the way those objectives and any environmental considerations have been taken into account during the drafting process of plans and programs;

2.6. the likely significant effects involving and secondary effects, cumulative, synergic, short medium long term, temporarily, positive and negative effects) on environment, including on issues as biodiversity, population, human health, flora, fauna, soil, water, air, climatic factors, material assets, cultural and natural heritage, architectural and archeological heritage and interrelationship between above factors;

2.7. the measures envisaged to prevent, reduce and as fully as possible offset any significant adverse effect on the environment of implementing the plan and program;

2.8. an outline of the reasons for selecting the alternatives dealt with, and a description of how the assessment was undertaken including any difficulties such as technical deficiencies or lack of know-how etc. encountered in compiling the required information;

2.9. introduction of likely significant trans-boundary effects on environment;

2.10. foreseen measures for monitoring;

2.11. consultation results with organs, interested organizations and public;

2.12. a non-technical summary of the information provided under this article.

3. Drafted SEA report, according to the paragraph 1 of this article, covers information which can be requested in a reasonable manner, taking into the consideration, actual knowledge and assessment methods, content and level of details on plan and program, their level on decision-making process and measure on determinate issue, assess in right manner on a different level of draft process, in manner to avoid double assessment.

4. Information for effects on environment of a plan and program, taken from other different decision-making levels or through other legislation, can be used on drafting the SEA report.

5. Authorities, which article 17, paragraph 3 of this Law, are referred, will be consulted in order to take a decision for aim and level of detail information which must be included in the SEA report.

Article 14

General and specially purposes and indicator selection

1. Overall and especially aims of strategic assessment defined based on requests and aims from aspect of environment protection on other plans and programs.
2. Aims of environment protection appointed on international and local level, collection of data for environment issue and necessary questions, problems and purposing regarding to environment protection according to plans and programs.
3. Based on appointed paragraph 1. and 2. of this article, is doing indicators which will used for drafting of SEA report.

Article 15

Complier of the SEA report

1. The SEA report can be drafted by any licensed legal entity or physical person.
2. Procedures and criteria's for license from the paragraph 1. of this article, Minister should determine by sub-legal acts.
3. Report of SEA will be signed by the drafter and bearer of the plan and program.
4. Drafter of SEA report and owner of plan and program, are responsible for accuracy of all information and data involved in report.

IV CHAPTER

DECISION -TAKING FOR ISSUING THE CONSENT OF SEA REPORT

Article 16

Participation of bodies and interested organization

1. Owner of plan and program, report of SEA from article 13, paragraph 1. should send to the interested organs, organization, in

order that in term of thirty (30) days to give their opinions.

2. Ministry appoints state authorities local and central which shall consult, and as results of environment responsibilities, it is possible to be concerned/touched by environment effects of plans and programs which must be implemented.

3. Ministry will identify the public for the purposes of paragraph 1. of this article including inhere damaged public or which could be harmed or if he is interested to participate in decision-taking, including also respective NGO and other interested organizations.

4. If conclusions do not send within limited time from paragraph 1. of this article, it will be considered that there aren't any remarks on sent report for SEA.

5. Minister with sub-legal acts will determine the information manner and participation of the public and stakeholders on the procedure of SEA report reviewing procedures.

Article 17

Public debate

1. Bearer of the plan and program will inform Ministry and public for the manner and deadline term for public debate regarding SEA report, time and place of public debate and settlement their opinions.

2. For public debate from paragraph 1. of this article, should be informed the public, at least fifteen (15) days before the public debate.

3. Public debate will be organized from the bearer of plan and program.

Article 18

Transboundary consultation

1. If there exist the possibility of transboundary effects, Minister initiate the procedure for information exchanges for transboundary effects.

2. According to the paragraph 1. of this article, Ministry should inform the transboundary country if it is interested to enter into consultations before delivering the documents on approval procedure, and if it is interested for likely transboundary effects which can be caused from the plans and programs implementation and foreseen measures for eliminating such of effects.

3. In cases when such consultation take place, Ministry and transboundary countries shall agree on detailed arrangements to provide that authority mentioned on article 16, paragraph 3. of this Law and public mentioned on article 16, paragraph 4. of this Law in the transboundary country, when it is likely to be significantly affected from implementation of a plan and program, is informed and given an opportunity to forward its opinion within a reasonable time-frame.

4. Ministry, on the procedure of participation of bodies, organizations and public, in term not far away that when will inform its public, send to other country for opinion the information, and that:

4.1. a copy of plan and program and the SEA report;

4.2. content of decision;

4.3. ddeadline in which other state can Inform for its aims, and participation on consultation.

5. Transboundary countries in which can introduce environmental impact, can give a thinks and comments for plan and program and can participate on public debate

6. Comments from transboundary states must be taken in consideration during drafting of SEA report.

7. On decision for consent issue on SEA report, Ministry informs other state which was consulted, to inform on:

7.1. content of decision for license issue of SEA report;

7.2. manner of drafting the SEA report and comments taken during the drafting process;

7.3. results of consultation and reasons on which is based decision for issuing the consent;

7.4. monitoring measures of plan and program.

8. For taken information from other state for inter border impact of proposing plan and program, Ministry inform organs, organization and stakeholder, for manner how was appoint on article 18, paragraph 1. of this Law.

9. Results of consultation and thinks undertaken from organs, organizations and stakeholder, Ministry are taking in considering during the meetings with other state.

Article 19

Report of participation of the bodies and organizations interested for public debate

1. The owner of a plan and program draft reports for participation of stakeholder and public debate according to SEA report, which content thoughts from article 17 of this Law as well as delivered thoughts during public debate for SEA report from article 18 of this Law.

2. Report from paragraph 1. of this article, must prepare in term of thirty (30) days, from final day of public debate which content the reason for all accepted thoughts, issued from public debate.

Article 20

Assessment of the SEA report

1. Owner of plan and program, SEA report together with report for participation of interested organs and organizations and public debate and follow-up documentation, send to Ministry to take consent on SEA report.

2. Minister with sub-legal act determinates list of documentation which follow the request according to kind or nature of plan or program.

3. After the acceptance of report from paragraph 1. of this article, Ministry, can accept thoughts from other authorized organizations or from professional persons on certain fields.

4. Assessment of SEA report from paragraph 1. of this article, carry out responsible body's of the Ministry based of criteria as follows:

4.1. plan and program:

4.1.1. are introduced clearly aims and content of plan and program, zones for which is prepared plan and program, involving of spatial and timely horizon;

4.1.2. issue of environment protection which are introduced on preparing of aims of plan and program;

4.1.3. reflected the links with other plans and programs.

4.2. environment situation :

4.2.1. is introduced current and future environment;

4.2.2. describing of environment situation is adapted in order to indicators for SEA;

4.2.3. are presented an information sources for environment and methodology which are adapted on complicated level of SEA.

4.3. alternative solution:

4.3.1. is introduced a manner with which is prepared and reviewed an alternative solution for issues and problems regarding to environment;

4.3.2. is prepared alternative solution of non realization of plan and program and a proper alternative solution from an environment protection aspect;

4.3.3. has carry out assessment of alternative solution of environment impact and is done a comparison.

4.3.4. are argued reasons for choosing the most reasonable alternative from the environmental protection aspect.

4.4. environmental impact assessment:

4.4.1. is introduced a manner with which are appointed and assessed an importance impact of plan and program on environment;

4.4.2. during the environment impact assessment are involved the following contents: air, water, soil, climate, plant and animal world, nature habitats, biological motley, culture value, nature and historic, public and health, cities and other settlements, infrastructure objects, industries and other objects as well as other created values;

4.4.3. during the environment impact assessment are taken in considering these characteristics of impacts: probability, intensity, complexity/reversibility, timely dimension: duration, frequencies, repeating and spatial dimension: location, geographic zone, number of exposed people nature of inter border, cumulative and synergy nature of impact, other characteristics of impact;

4.4.4. determination and assessment of important impacts is adapted with appointed standards, regulations and limited values;

4.4.5. is prescribed a useful methodology.

4.5. measures and following program of environment situation;

4.5.1. has foreseen measures for interruption and limiting of negative impact, its mean that this increase a positive impact on environment for every assessment impact;

4.5.2. it is introduced a manner with which has prepared a direction for drafting of impact assessment project on environment and other strategic values;

4.5.3. is prepared the following program of environment situation during realization of plan or program.

4.6. report of SEA:

4.6.1. clearly is defined the role of competent organs of drafting the SEA report;

4.6.2. report of SEA is prepared in clearly manner;

4.6.3. are proceeds all report elements for SEA, determinates on article 13 of this Law and are given the information sources involved the professional thoughts;

4.6.4. is introduced a manner of environment issues on plan or program, manner of taken decision and are described a main causes to choose the plan or program purposed from alternative aspects which are reviewed;

4.6.5. conclusions on drafted report of SEA, are introduced in a clearly manner for public.

4.7. participation of organs, organizations and other stakeholders:

4.7.1. is provided participation of organizations, public stakeholders on processing of drafted report how is decided on taken decisions for drafted report;

4.7.2. are delivered thoughts of organs and organizations as well as other public stakeholders interested for SEA report and is introduced manner how is decided for taken decisions.

5. Based on assessment, Opinion-Proposal from responsible body of Ministry will be prepared within sixty (60) days, of the date of acceptance of the SEA report

Article 21

Decision for the Environmental Consent on SEA report

1. Based on assessment of the article 20, of this Law, responsible body of Ministry, prepares Opinion-Proposal, which will present in writing to the Ministry.

2. Within fifteen (15) days, from the acceptance of the Opinion-Proposal from responsible body of Ministry, the Minister shall decide for granting or refusing an Environmental Consent for SEA report and convey this decision to the bearer and the Assembly, in written form.

3. The Minister may decline to follow or may amend the responsible body's Opinion-Proposal, only in the bases of imperative reasons of overriding public interest, including reasons of an economic, social or environmental nature by majority of votes from the Assembly of Kosovo.

3.1. minister shall notify in written form the Assembly with the decision that is taken to decline or amend the Opinion-Proposal. Minister's information should contain justification based on which was taken the decision;

3.2. the Assembly shall review, approve, refuse or amend Minister's decision to decline or amend the Opinion- Proposal within thirty (30) days from the day the decision was submitted;

3.3. if the Assembly does not have a proper concernment within thirty (30) days from the day of notification on Minister's decision, based in paragraph 3, sub-paragraph 3.2. of this article, shall be considered that the Assembly approves the Minister's decision on Proposal-Opinion.

4. Ministry is obliged to submit the SEA report to the Assembly of Kosovo.

Article 22**Approach on information**

1. Report of SEA, results of organs participation, organizations and other public stakeholders and also other states in case of border impacts, are content part of the base documentations of the plan and program.
2. The bearer of the plans or programs and Ministry, provide the approach of data's from paragraph 1. of this article, also after plan or program approval according to appointed conditions defined by this law.

CHAPTER V**SUPERVISION****Article 23**

1. The implementing supervision of this Law, in frame of determined competences by this Law, should be done by the Ministry.
2. The Inspected supervision in frame of Ministry competences should be done by the Ministry Inspectorate and in accordance with Law.
3. Report on implementing supervision of this Law shall be prepared by Ministry three (3) years after the entrance into force, whereas in following period every five (5) years.

CHAPTER VI**PUNISHMENT PROVISIONS**

Article 24

1. With penalty of money from 10% of the total value of plan shall be punished for offences the competent body of local or central administration, if:

1.1. does not draft report of SEA for plan and program from article 4, paragraph 2. of this Law;

1.2. does not draft report of SEA and do not accept license for report of SEA article 5, paragraph 1. and 2. of this law;

1.3. issues decisions for drafting needs for SEA in contrary of appointed criteria on paragraph 8 of this law;

1.4. issues decision for drafting of SEA report, without any consulting from Ministry (article 9, paragraph 1.);

1.5. does not take a decision for SEA report in the same time for preparing of plan and program (article 9, paragraph 2.);

1.6. approves purposing decision for drafting of SEA report in contrary with article 10, paragraph 1.;

1.7. drafting of SEA report in contrary with article 15, of this Law;

1.8. SEA report is drafting from legal or physic persons without license (article 16, paragraph 1.);

1.9. does not delivery SEA report for any thoughts to organs, organizations and public stakeholders (article 17, paragraph 1.);

1.10. does not announce a interested public for manner and deadline of public review of SEA report, for time and place of public debate holding (article 18, paragraph 1.);

1.11. owner of plan and program do not delivery to SEA report to Ministry for license issue (article 20, paragraph 1).

2. For delinquency from paragraph 1. of this article, will penalty the responsibility person of local or central administration.

CHAPTER VII

TRANSITIONAL AND FINAL PROVISIONS

Article 25

Plans and programs which has been started to be prepared before this Law is enforced, will continue according to the procedure determined by this Law.

Article 26

In term of twelve (12) months since the enforcement day of this Law, the Minister should issue the sub-legal acts determined by this Law.

Article 27

This Law shall enter in force fifteen (15) days after publication to the Official Gazette of the Republic of Kosovo.

Law No. 03/L-015

12 February 2009

Promulgated by the Decree No. DL-003-2009, dated 06.03.2009, of the President of Republic of Kosovo, Dr. Fatmir Sejdiu.

LAW Nr. 03/L-015**ON ENVIRONMENTAL STRATEGIC ASSESSMENT****ANNEX I**

1. Where an environmental assessment is required according to article 4, the report on environment shall be prepared to present the possible effects in environment by the implementation of plan or program, reasonable alternatives taking into account the identification, description and assessment of the goals and geographic compass of plan and program. For this reason the environmental report should contain:

1.1. summary of the content, main goals of plan and program and report with other relevant plan and programs;

1.2. relevant aspects of recent environmental condition, excepted evolve taking into account non implementation of plan and program;

1.3. space environmental characteristics that shall impact seriously;

1.4. existing environmental problems relevant for plan and program, including specifically, those related to spaces with special environmental importance, such as spaces defined in Directives 79/409/EEC and 92/43/EEC of European Union;

1.5. objectives of environmental protection, determined by international agreement, regional and state, which are relevant for plan and program and the way how to take into account those objectives and other environment worries when drafting them;

1.6. possible environment impacts, including the issues as biodiversity, population, human health, noise, fauna, flora (soil), water, air, climate factors, material assets, cultural inheritance, including architectural and archeological inheritance, view and interaction among the above mentioned factors;

1.7. foreseen measures to prevent, decrease and neutralize the serious negative impact in environment as consequence of implementation of plan and program;

1.8. summary of reasons for selection of given alternatives, description of the development of assessment process including difficulties (such as technical deficiency) found when gathering required information;

1.9. description of foreseen measures for supervision in accordance with article 23;

1.10. non-technical summary of given information based on the above mentioned categories

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