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Romania-Republic of Moldova
ENI-CROSS BORDER COOPERATION

Call for proposals
Guidelines for grant applicants – HARD projects

ANNEX F

Anexa nr. 2
la Caietul de sarcini

MAIN CONTENT OF THE FEASIBILITY STUDY FOR INFRASTRUCTURE

PART I ANALYSIS

1. GENERAL INFORMATION

- 1.1 Name of the infrastructure
- 1.2 Owner of the infrastructure
- 1.3 Beneficiaries of the infrastructure
- 1.4 Author of the feasibility study

2. CURRENT SITUATION AND THE NEED FOR EXECUTING THE INFRASTRUCTURE

- 2.1 The context (policies, strategies, legislation, relevant agreements, institutional and financial structures)
- 2.2 Analysis of the current situation and identification of deficiencies
- 2.3 Justification of needs for the infrastructure

3. SCENARIOS PROPOSED FOR EXECUTING THE INFRASTRUCTURE (MINIMUM 2)

Each scenario will comprise the following sections:

3.1 Features of the site/ location:

- a) Site/ location description (land location, surface, dimensions, ownership, special features e.g. protected area, historical monument etc.)
- b) Access to the infrastructure (existing or potential)
- c) Existence of:
 - utility networks requiring relocation / protection, to the extent that can be identified
 - historical monuments / architectural or archaeological sites which may raise specific restrictions;
 - infrastructure belonging to the defense system, public order or national security
 - others, similar
- d) Geophysical characteristics of the land (if the case), as from the geotechnical study developed according to the national regulations, comprising inter alia: seismic zoning, data on the nature of the foundation soil, geological and geotechnical data, risk areas based on official data, hydrologic characteristics stemming from existing studies

3.2 Technical, constructive, functional, architectural, technological description of the infrastructure, comprising:

- technical characteristics and parameters specific to the infrastructure
- solution for executing of the infrastructure, with justifications



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- equipping and endowment according to its function
- solutions to ensure the necessary utilities, if the case

3.3 Estimated costs of the infrastructure

- total costs estimated to execute the infrastructure by taking into account cost of similar infrastructures, or standard costs for infrastructure having similar technical characteristics and parameters
- operating costs estimated for the lifecycle of the infrastructure

3.4 Other studies

As applicable e.g. topographic survey, geotechnical study and/ or analysis of land stability, hydrological study, hydro-geological study, study on possible use of highly-efficient alternative systems to enhance energy performance, traffic study and/or movement study, preliminary archaeological diagnostic report, study on the cultural resources, other specialized studies, according to the specific of the infrastructure

3.5 Duration for execution of the infrastructure (in months)

3.6 Sustainability aspects related to the infrastructure:

- a) social and cultural impact, equal opportunities;
- b) labor force to be employed following execution of the infrastructure;
- c) environmental impact, including impact on biodiversity and protected sites, if the case;
- d) impact on the natural and anthropic environment

3.7 Financial analysis

Showing financial performance indicators: the cumulative flow, net present value, internal rate of return, financial sustainability

3.8 Economic analysis

Showing performance indicators: net present value, internal rate of return, cost-benefit report or, where appropriate, cost-effectiveness analysis

3.9 Risk analysis and measures to prevent/ mitigate risks

4. THE BEST RECOMMENDED SCENARIO

4.1 Technical, economic, financial, sustainability and risks comparison between scenarios/options



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4.2 Selection and justification of the best recommended scenario

4.3 Description of the best recommended scenario comprising:

- a) land ownership
- b) utilities needed for operation of the infrastructure
- c) technical solution describing, as appropriate, technology, construction, technical and functional indicators, economic indicators, main works
- d) installation, testing

4.4 Overview of technical and economic indicators related to the infrastructure

- a) Maximal indicators e.g. total cost of the infrastructure, etc.
- b) Minimal indicators e.g. performance indicators according to standards, technical regulations, etc.
- c) Financial, socio-economic, impact, result/ operating indicators according to the specific of the infrastructure
- d) Expected duration of execution of the infrastructure (in months)

4.5 Compliance with specific regulations related to the expected function

4.6 Agreements, consents, authorizations

Needed to execute/ operate the infrastructure

- a) Related to the land and/ or building including documents stating ownership or other type of rights and registration in public registers
- b) Related to the infrastructure
- c) The building permit
- d) Other agreements, consents, authorizations needed to render the infrastructure as fully functional according to the national legislation in force

5. IMPLEMENTATION OF INFRASTRUCTURE

5.1 Entity responsible for executing the infrastructure

5.2 Implementation strategy

Including: duration of execution (in months), the implementation schedule, and resources required

5.3 Strategy for operating and maintaining the infrastructure (stages, methods, resources required)

6. CONCLUSIONS AND RECOMMENDATIONS



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7. VALIDITY PERIOD FOR THE PRESENT STUDY¹

PART II DESIGNS

Designs will be presented at scales relevant to the characteristics of the infrastructure:

- 1. PLAN OF THE AREA
- 2. PLAN OF THE SITE

Showing the limits of and access to the land/ building where the infrastructure is to be executed, utility networks nearby, any protected areas established by the national legislation in the respective land/ building

- 3. GENERAL PLANS, VOLUMETRIC, FUNCTIONAL SCHEMES, OTHER SPECIFIC PLANS AS APPROPRIATE

Date

Designer*

.....

.....

(name, function and signature of authorized person)

* The feasibility study will provide as an end page, the list with signatures through which the developer assumes the data and the solutions proposed. It will contain at least the following: no ... / date of the contract, name and surname of the person responsible for the project, signatures and stamp.

¹ As provided by the national legislation or, in case such provisions do not exist, validity should not overcome more than 24 months.

ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

Terms and Definitions

Cross border impact - means any impact, not exclusively of a global nature, within an area under the jurisdiction of a Party caused by a proposed activity the physical origin of which is situated wholly or in part within the area under the jurisdiction of another Party.

Competent authority - means the national authority or authorities designated by a Party as responsible for performing the tasks covered by the Convention and/or the authority or authorities entrusted by a Party with decision-making powers regarding a proposed activity.

Impact - means any effect caused by a proposed activity on the environment including human health and safety, flora, fauna, soil, air, water, climate, landscape and historical monuments or other physical structures or the interaction among these factors; it also includes effects on cultural heritage or socio-economic conditions resulting from alterations to those factors.

Environmental impact assessment - means a national procedure for evaluating the likely impact of a proposed activity on the environment.

Environmental agreement – a permissive act, issued by the central environmental authority of the public administration, which establishes the conditions and, as the case may be, the environmental protection measures, which must be considered when the project is implemented.

Initiator – a legal entity or individual, including public and administrative-territorial units, which intends to implement certain intended activity.

Planned activity – a public or private project or intended activity that implies construction of new objects, expansion, reconstruction, modernization, planning new types of activities, acquisition or use of the natural resources, influence on the untouched territory or landscape or

Party of origin - means the Contracting Party or Parties to the Convention under whose jurisdiction a proposed activity is envisaged to take place.

Affected Party - means the Contracting Party or Parties to the Convention likely to be affected by the transboundary impact of a proposed activity.

Environmental impact assessment (hereafter, referenced as - *EIA*) represents a complex process aimed at identifying and assessing the potential positive and negative, direct and indirect, synergic, cumulative, primary and secondary effects that a public or private project may have on people's health and environment. This assessment also identifies measures to mitigate or offset adverse effects on the environment and that will undergo the assessment procedure before the permissive act (**environmental agreement**) is issued.

This EIA procedure is established and described in the framework of the **Law no. 86 from 29.05.2014 on Environment Impact Assessment** (hereafter referenced as – *Law on EIA*). The authority empowered to assess environmental impact and to prevent an impact or an ecological crisis is the Ministry of Environment of the Republic of Moldova.

This law partially transposes Directive 2011/92 / EU of the European Parliament and of the Council of 13 December 2011 on the effects of certain public and private projects on the environment, published in the Official Journal of the European Union no. L26 from 1 January 2012.

The purpose of the Law on EIA is setting a legal framework for the mechanism of assessing the environmental impact of certain public and private projects or certain types of planned activities, to ensure prevention or minimization, at initial stages, of the negative impact on environment and health. At the same time, this law covers the procedures and methods applied in the EIA of certain public and private projects or certain types of planned activities that may have a significant impact on the environment in Moldova and other countries.

Art. 3 of the Law on EIA expressly provides the principles of EIA, as follows: the principle of preventive action, the principle of fairness and completeness of the information, the principle of transparency and accessibility, participatory principle, the precautionary principle, the "polluter pays" principle. By these principles, Moldova tends to align its national framework to the international one, as, if we refer to sustainable procurement area, it should be noted that it will rely on ensuring compliance with these principles. These will be followed by implementation of principles, in order for the environmental factor not to be affected negatively. At the same time, the concept of each principle separately, the application-effect relation, as well as the value of applicability of these principles are developed under Art. 3.

Moreover, under Article 4, **the scope of the EIA** is to emphasize, describe and assess in an appropriate manner, in each case, the direct and indirect effects of planned activity on people, fauna and flora; soil, subsoil, water, air, climate and the landscape, material assets and cultural heritage, including the interaction of those factors and their long-term and cumulative consequences.

The **EIA procedure** will be preceded by a preliminary environmental assessment (hereafter, referenced as – *PEA*) of the planned activity, to be carried out on the basis of the request, submitted by the project initiator/ holder.

The purpose of the PEA is to identify the planned projects and activities that require EIA and to exclude, from the EIA process, the proposals that have a minor impact and for which the EIA is not required.

Following the PEA, the competent authority decides whether there is a need to evaluate the planned activity or if it the project initiator/holder can develop the technical documentation subject to state environmental expertise. If the decision stipulates the need to assess the environmental impact of the

planned activity, all subsequent procedures provided by the legislation must be carried out. Thus, the planned activity can only be developed if certain conditions, meant to reduce the negative effects, as well as all the consequences on human health and environment, are taken into account.

At the same time, in accordance to Art. 4 of the Law on EIA, there have been defined 2 groups of planned activities. First group implies a list of planned activities that are subject to a mandatory EIA (Annex 1 to the Law on EIA) and the second group contains activities for which there should be determined a need for EIA (Annex 2 to the Law on EIA).

Therefore, if the planned activity or project is mentioned within the Annex 1 or 2 of the Law on EIA, the initiator must present the competent authority a request to undergo a PEA in order to determine the necessity to perform EIA.

Before starting to fulfil and submit the request for PEA, the initiator/project holder should elaborate and approve a feasibility study on the planned activity.

The competent authority decides whether the EIA should be carried out or not based on the information provided within the request for the PEA. The request will contain information on the planned activity and at least two (alternative) solutions regarding the place and type of technologies used, indicating the possible impact on the environment and the social and economic aspects of this impact. The content of the request for planned activity is mentioned in Annex no. 3 to Law on EIA.

If the information provided within the request is complete, the request is registered in the electronic register, kept by the competent authority and open to public access.

The request submitted by the initiator/project holder shall be examined by the Commission of Experts within 10 working days.

Within 5 days from the date of submission of the request, the Competent Authority shall place this information on its official website (www.mediu.gov.md).

In practice, it is to be expected that, in most cases, the project initiator will not be able to provide information on the potential impact characteristics due to lack of specialized knowledge. In this case, the site visits take place, discussions are held between the competent authority, the project initiator, the members of the Commission of experts, and other organizations, including the public. They can make an important contribution to identifying any possible local concerns about the project.

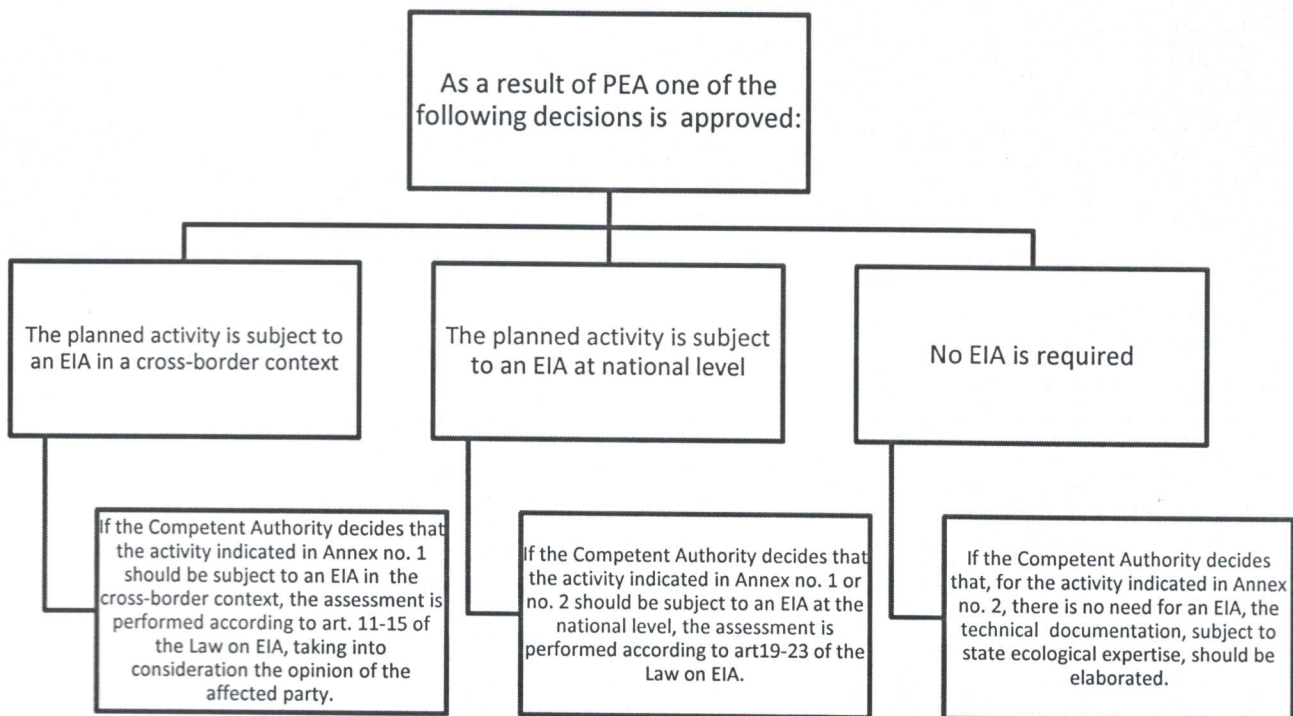
If at the time the request is submitted, the subject of the planned activity is not included in the list of activities within the annex no. 1 and no. 2 of the Law on EIA, the Secretary of the Commission in coordination with the President of the Commission shall return the request and issue a certificate of return.

The competent authority examines the submitted request and all the documents related to it within 10 working days in accordance to criteria stipulated in the Annex no. 4 to Law on EIA.

Following the PEA, the competent authority shall approve one of the following decisions:

- A) the planned activity is subject to an EIA in a cross-border context;
- B) the planned activity is subject to an EIA at national level;
- C) no EIA is required.

Figure 1. Decisions approved by the Commission regarding the PEA of the planned activities



The decision on the PEA is communicated to the second level local authority, that covers the territory where the planned activity is planned to be carried out, as well as to the initiator by placing it on the website of the Ministry of Environment (www.mediu.gov.md) within 5 business days from the approval date.

II. Environmental impact assessment in cross border context

If certain activities with a cross-border impact are planned to be carried out on the territory of the Republic of Moldova, or if a planned activity of other states has a significant impact on the environment of the Republic of Moldova, the environmental impact assessment is performed in a cross-border context.

Thus, under the provisions of the law no. 86, the EIA is carried out at a cross-border level for activities listed under points 1-16 of the Annex 1 and at a national level for activities listed under points 17-24 of the same Annex.

Where the Republic of Moldova applies the EIA procedure in a cross-border context, it coordinates and presents the relevant information to other states in accordance with the requirements of the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) and in accordance with the restrictions of the Law on EIA.

In this respect, when the Republic of Moldova is the party of origin or an affected party of the environmental impact assessment procedure in a cross-border context, the Ministry of Environment ensures that the principle of transparency and accessibility of information is applied in compliance with the legislation on transparency of the decision-making process and that the legal acts issued during the regulatory procedure are in accordance with the requirements of the legislation on EIA.

Thus, according to Article 16 (2) (a) of the Law on EIA, the Republic of Moldova as an affected party publishes the notification of the Party of origin for public consultation and submission of an opinion on the activity planned by another State. Thus, the public should submit the comments in written form to the Ministry of Environment, by mail, electronically or fax no later than 30 days from the day of placing the notification and documentation on the web page.

At the same time, if at the stage of PEA, the Ministry of Environment establishes the need to examine the planned activity in a cross-border context, according to art. 12, paragraph 2, the party of origin submits, through the diplomatic channels, to the competent authority of the affected Party the notification about the planned activity and publishes it on its official web site.

Therefore, in a cross-border context, the EIA takes place in two cases:

- 1) When planned activities with a transboundary impact on the territory of the Republic of Moldova are likely to have a significant impact on the environment of a third country. In this case, the Republic of Moldova is a state of origin, and the third state, whose environment can be affected, is considered the affected party.
- 2) When the Republic of Moldova considers itself affected, it receives from another state a notification about a planned activity that may have a significant impact on the environment of the Republic of Moldova. The preparation of the response to the notification and the subsequent coordination of the work on the impact assessment procedure is the responsibility of the competent authority of the affected party.

If at the PEA stage, the competent authority has identified activities with a cross-border impact that are planned to be implemented on the territory of the Republic of Moldova, the initiator of the activity shall prepare a notification for the affected party and submit it to the competent authority.

In terms of 5 working days from the receipt of the notification from the originator, the competent authority shall, submit to the competent authority of the affected State, via the diplomatic channels, the notification on the planned activity and place it on its official web site.

The notification will contain information on the basis of which the affected party can determine its level of interest and involvement in the EIA. The notification must be submitted to the affected party in the

State language or in one of the official languages of the Espoo Convention or any other language accessible, agreed upon with the affected party.

Within 30 days from the receipt of the notification, the Competent Authority of the affected State will provide a response regarding its participation / non-participation in the environmental impact assessment procedure.

State institutions and other institutions of the affected party, involved in the process of reviewing the EIA documentation, as well as the public concerned, shall submit their comments within the provided time limits to the competent authority that prepares the notice.

At the notification stage, the Party of origin may request from the affected Party the public information necessary for the preparation of the environmental impact assessment documentation and information on the national environmental impact assessment procedures. The requested information shall be submitted no later than 45 days from the date of receipt of the request.

If the affected party has expressed its intention to participate in the EIA procedure and has informed the competent authority of the Party of origin about its decision in due terms, the EIA procedure shall be carried out with the participation of the affected party. The lack of reaction from the Competent Authority of the affected Party is equivalent to the lack of objections and acceptance of the activity planned by the Party of origin.

❖ **EIA process in the cross border context**

Environmental impact assessment in a cross-border context only takes place if the competent authority of the affected party decides to take part in the environmental impact assessment process. Therefore, it has the obligation to inform the competent authority of the Party of origin about the decision taken through diplomatic channels, in writing. At the same time, the answer may contain a brief description of the potentially affected environmental components. In order to ensure decisional transparency and public access to information, within 5 days, the competent authority shall place the information on the decision taken on its official website.

After collecting the necessary information at the national level and from the affected party, as well as after coordinating the EIA Program with the competent authority of the Party of origin, taking into consideration the opinion of the affected party, the initiator starts to develop the documentation on the EIA.

The initiator must consider the notice of the competent authority of the affected party while preparing the EIA documentation and should inform the competent authority of the affected party within the set deadlines about the acceptance or rejection of the objections and proposals indicated in the notice.

**PROCEDURE FOR IMPLEMENTATION OF THE EIA IN THE CROSS BORDER
CONTEXT**

Criteria:	For party of origin	For affected party
1) Conditions for submission of EIA documentation to the affected party	The EIA documentation is presented to the affected party through diplomatic channels. The language in which the documentation is presented must be accessible, so the competent authority of the affected party may examine it and come up with comments and / or recommendations. The EIA documentation shall be submitted on paper and in electronic format.	
2) Terms for submitting the EIA documentation	The competent authority of the Party of origin shall, within 5 working days from the receipt of the EIA documentation from the initiator or the authority, by which it was elaborated, submit that documentation to the competent authority of the affected Party.	The Republic of Moldova as an affected party receives from the party of origin the EIA documentation within the terms set under the legislation of the Party of origin.
3) Terms for submitting the notice on the EIA documentation	The deadline for reviewing, conducting public consultations and submitting the notice regarding the EIA documentation for the affected party is no more than 50 days. At the request of the affected party, the competent authority of the Party of origin may, with the consent of the initiator, extend the period for reviewing the EIA documentation by up to 30 days.	
4) Consultations	Once the EIA documentation has been prepared and submitted to the affected Party, the competent authority of the Party of origin will mandatorily open consultations with the Competent Authority of the affected Party. Consultations will tackle on the following issues: i) the potential cross-border impact of the planned activity; ii) measures to reduce or eliminate its negative impact; iii) methods of informing the public and conducting public debates. The competent authorities of the Parties shall jointly examine other matters relevant to the planned activity and the EIA procedure.	
5) Conducting consultations	The competent authorities of the Parties agree on the the participants during the consultations as well as on the terms, the place and the form of the consultations. Consultations can be organized in the form of: a) joint committees; b) expert meetings; c) video conferences, exchange of information via electronic mail or official letters;	

	d) meetings of medium and / or high ranking officials.
6) Conducting debates	<p>The public debates shall be carried out, on a case-by-case basis, on the territory of the Party of origin, within the administrative / territorial boundaries of the area(s) where the activity is planned, with the participation of the affected Party, in accordance with the bilateral agreements or the joint decision of the Parties on carrying out public debates.</p> <p>The participation of the affected party in consultations and public debates shall be carried out on its own.</p> <p>Under the joint agreement of the competent authorities of the parties, the affected party may participate in public debates on the territory of the party of origin.</p> <p>Participation of the affected party in public debates is carried out on its own. The Competent Authority of the affected Party shall place information on the conduct of public debates on its official website, inform the local public administration authorities of the potentially affected territory, inform the public through the media and the internet about the date and venue of public debates.</p>
7) Recording the public debates' results	The results of the public consultations and debates, including the list of participants, shall be recorded in the minutes, signed by the chairman and the secretary of the meeting.
8) Decision on issuing the environmental agreement	<p>After the internal coordination procedure regarding the EIA documentation, including public debates and the conclusions of the consultations, taking into account the opinion of the affected party, the competent authority of the Party of origin decides on the issue of the environmental agreement.</p> <p>The competent authority of the Party of origin shall, within 15 days, inform the competent authority of the affected Party, through the diplomatic channels, about the issue of the environmental agreement.</p>

The local or central public authority that issued the permissive act, endorsing the planned activity, for which an environmental agreement has been issued, shall inform the competent authority in writing about the issuance of the permissive act within 10 days from the date of its issuance.

The competent authority shall place on its official web page a copy of the permissive act of carrying out the planned activity. The initiator, within 10 days, informs the public about the permissive act by publishing the ads in the media and placing them on its official web page.

The initiator is responsible for:

- A) the completeness and veracity of the information presented;
- B) carrying out the EIA of the planned activity in accordance with the law on EIA and other normative acts;

C) organizing public debates;

D) achieving of the provisions and observance of the conditions stipulated in the environmental agreement.

The owner of the EIA documentation is responsible to the initiator in accordance with the contractual provisions and the law on EIA.

When making the final decision on issuance of the environmental agreement, the competent authority shall take into account the following:

- 1) the results of EIA documentation review;
- 2) the opinions of the central and local public administration authorities as well as of the other interested institutions;
- 3) comments made by the public in written form and results of public consultations.

The term set for adopting the final decision and informing the initiator on this adoption is 60 days from the date of receipt of the EIA documentation by the competent authority.

The competent authority may decide to extend the 60-day period under the following conditions:

- 60 day period has not expired;
- the initiator accepted the extension of the term;

The extension period may not exceed 30 days.

The environmental agreement should contain the argumentation of the decision taken; the mandatory measures envisaged to prevent or reduce the negative environmental impact; information on the conduct of the public participation process.

The environmental agreement is valid for 4 years. If at the moment of its expiration, the initiator did not obtain the permissive act for the planned activity, the entire EIA process should be launched again, starting with the submission of the application.

Any person, including association of persons or organizations, has the right to contest, in accordance with the Law on the contentious administrative no. 793-XIV of February 10, 2000, any decision provided by the law on EIA, including if this violates or ignores the public's right to information or participation in the process of EIA.

All the expenses related to elaboration, translation and submission of documents on EIA, informational activities, organization of public consultations will be borne by initiator, while the environmental approval is issued by the competent authority free of charge.