

# Lessons Learnt in the years 2015-2017

Lubomila POPOVA, Ismini Maria KYRIAZOPOULOU  
31 January 2018, Brussels



# 2015 - 2017, beginnings can be challenging...

---

- **Difficult beginning, but improvement is largely demonstrated**
- **Inertia from the previous programming period slowly overcome**
- **Experiences gained are progressively showing in the quality of projects and underlying documentation**

# Reality can be complicated...(1/2)

## **We often deal with:**

- Projects covering large geographic areas with diverse conditions;
- Complex investments: creating new/upgrading existing ones;
- Multipurpose projects:  
e.g. in the water sector projects covering investments aiming at providing drinking water and collection and treatment of wastewater to settlements/agglomerations above 2000 p.e.;
- Projects that are developed and refined over a substantial time period (5 to 10 years).

**Uncertainties need to be resolved before submission of a  
Major Project for funding**

# Reality can be complicated...(2/2)

## Uncertainties that sometimes emerge:

- Does the EIA Documentation cover the entire project?
- What was the MS EIA legal context, valid at the time the EIA was done for the project and at the time of AF presentation?
- Is the EIA up to date reflecting developments and changes in terms of project design and implementation?
- In case of multiple EIA procedures, was there a “salami slicing” approach? were cumulative impacts duly assessed?

**The EIA documentation needs to be up to date and to reflect developments and changes in terms of project design and implementation. The above should be clearly presented as well as the legal context.**

**There should be no uncertainties whether environmental procedures (as necessary) have been duly applied the all stages/phases of the project.**

**In cases of a major project with multiple components and interlinkages**

**1 major project = 1 EIA/AA can be best practice**

# Hunting for information...

## **Uncertainties that sometimes emerge:**

- Was the public informed as necessary?
- Was the public consulted with as necessary?
- Were public comments considered?
- How do the above apply in multistage development consent procedure?

**In cases of multistage development consents there is still room for improvement in what regards the information that is provided for the different stages, in terms of informing and consulting with the public.**

**Clearer understanding is needed of what constitutes the decision of the competent authority issued in accordance with Articles 8a and 9 of the EIA Directive and providing the relevant information.**

**Major Project Application, Section F.3.3 (c), Footnote (3) information should be provided.**

# Sometimes providing a justification for not doing more is not easy... (1/3)

## Uncertainties that sometimes emerge:

- Were the Annex III criteria of the EIA Directive considered?
- Is the lack of transboundary consultations justified?

**The lack of significant (adverse) transboundary impacts needs to be clearly expressed in cases where transboundary consultations were not initiated (especially in cases of Annex I projects where impacts cannot be excluded from the outset).**

**The consideration of Annex III criteria of the EIA Directive (in cases of negative screening determinations) needs to be evident**

# Sometimes providing a justification for not doing more is not easy... (2/3)

## **Uncertainties that sometimes emerge with the Appendix 1 Declaration:**

- Is the entire project covered?
- Is it up to date? Have things changed since it was issued?
- Did the considerations include more than the distance from Natura 2000 sites?
- Does it address cumulative impacts?

**Needs to clearly cover the entire project and be up to date.**

**As already mentioned in the Declaration template, the justification needs to consider more than the distance from a protected area ( for e.g. effects on Natura 2000 sites located downstream/upstream of a project which affects water flow such as a dam)**

**It should address cumulative impacts (e.g. from adjacent sections of the same corridor)**

**In cases of linear projects, special consideration should be also given to adjacent sections, especially if their alignment is predefined by the project section considered for funding.**



# Sometimes providing a justification for not doing more is not easy... (3/3)

## Uncertainties that sometimes emerge with Appendix 2:

- Is the entire project covered?
- Is it up to date? Have things changed since it was issued (recent revision of RBMP)?
- It should clearly state if the project includes any new modifications to the physical characteristics of surface water bodies or alterations to the level of groundwater?
- Is the justification based on WFD requirements?

Appendix 2 does not have to be completed in cases where the project is expected to deteriorate water body status/potential. In such case, a full Article 4.7 test and applicability assessment should be carried out and provided together with the AF (section F.5.2.1).

It is expected to be completed for all infrastructure projects without excluding horizontally entire infrastructure sectors.

Needs to clearly cover the entire project and be up to date (keeping in mind the recent revision of the RBMP).

It should clearly state if the project includes any new modifications to the physical characteristics of surface water bodies or alterations to the level of groundwater etc. and offer a justification of the conclusion based on the WFD requirements.



# Emerging Challenge...Amendment of the EIA Directive

- The transposition deadline was 16 May 2017.
- Not all Member States met the deadline.
- Up to date, not all Member States have transposed.
- Member States might face challenges in the implementation.

# List of legal acts and guidance documents with internet links

- Toolkit for EIA and SEA general ex-ante conditionalities in 2014-2020 developed by JASPERS:  
<http://www.jaspersnetwork.org/plugins/servlet/documentRepository/displayDocumentDetails?documentId=121>
- JASPERS Networking Platform Events:  
<http://www.jaspersnetwork.org/display/HOME/Homepage>
- Training on environmental requirements for cohesion policy projects in the 2014-2020 programming period:  
<http://www.jaspersnetwork.org/display/EVE/Second+training+session+on+environmental+requirements+for+projects+in+the+2014-2020+programming+period>
- Streamlining assessments and permits during project development:  
<http://www.jaspersnetwork.org/display/EVE/Streamlining+assessments+and+permits+during+project+development>
- Workshop on the implementation of the Water Framework Directive in projects:  
<http://www.jaspersnetwork.org/display/EVE/Workshop+on+the+implementation+of+the+Water+Framework+Directive+in+projects>
- Knowledge sharing event on climate adaptation, vulnerability and resilience in projects:  
<http://www.jaspersnetwork.org/display/EVE/Knowledge+sharing+event+on+climate+adaptation+in+projects>

# More Information

---

**For info or further questions on this seminar and the activities of the JASPERS Networking Platform, please contact the JASPERS Networking and Competence Centre at the following email:**

**[jaspersnetwork@eib.org](mailto:jaspersnetwork@eib.org)**

**JASPERS Website:**

**[jaspers.eib.org](http://jaspers.eib.org)**

**JASPERS Networking Platform:**

**[www.jaspersnetwork.org](http://www.jaspersnetwork.org)**

