AVOSETTA RIGA MEETING

27-28 May 2016

Questions & Answers - Slovenia[1]

A. Baseline information

I. Industrial Installations[2]

1. Forms and scope of permits

In broad terms, what are the forms and scope of permits[3] necessary to construct and operate an industrial installation (e.g. an industrial installation in the sense of Annexes I or II of Directive 2011/92/EU?

- planning permission and/or building permit
- special environmental decision[4]
- construction and operating permit,
- stepwise permitting,
- other types of permit (nature, water extraction…)

Permitting construction and operation of the industrial installations are subject to different procedures, consents and permits. They are all regulated under the Environmental Protection Act.[5] The most central procedure is the one for obtaining the *building permit*, and after the constructions is complete, also the *operating permit (and within it also the environmental protection permit - EPP)*.

Within the *building permit* procedure some other (sub)procedures are necessary and very much interconnected. Namely, with respect to the environment, two crucial allowances are necessary: the first one is the ***environmental protection consent - EPC*** (Art. 50 EPA[6]). It is needed prior the commencement of the building permit procedure. The EPC procedure includes the Environmental Impact Assessment (EIA) procedure.

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[2] We start here from the hypothesis that the construction and the operation will take place in an area in which, according planning law or nature protection law, there is, *prima facie*, no legal obstacle to do this (e.g. in an industrial area not in the vicinity of a *Natura* 2000 site, etc..)

[3] Or similar acts such as mandatory favourable opinions.

[4] For instance, in Poland the investment process begins with the decision on the environmental conditions. In context of proceedings for adoption of that decision EIA is carried out. This decision provides environmental conditions and is binding for future decisions issued in the investment process.

[5] OJ of the RS, No. 41/2004, 17/2006 - ORZVO187, 20/2006, 28/2006 - skl. US, 49/2006 - ZMetD, 66/2006 - odl. US, 33/2007 - ZPNačrt, 57/2008 - ZFO-1A, 70/2008, 108/2009, 48/2012, 57/2012, 92/2013, 38/2014, 37/2015, 56/2015, 102/2015, 30/2016. Hereinafter EPA.

[6] OJ of the RS, Nr. 41/2004, 17/2006 - ORZVO187, 20/2006, 28/2006 - skl. US, 49/2006 - ZMetD, 66/2006 - odl. US, 33/2007 - ZPNačrt, 57/2008 - ZFO-1A, 70/2008, 108/2009, 48/2012, 57/2012, 92/2013, 38/2014, 37/2015, 56/2015, 102/2015, 30/2016, hereinafter EPA).

The second permit is the ***environmental protection permit – EPP*** *(which has to be obtained after the construction phase is over). It is necessary for the operation activities of the industrial installations.* It is differently regulated for different kinds of installations and activities (Art. 68 EPP for *IPPC installations*, Art. 82 for *other installations*, *which emit emission and these emissions are legally regulated (limited)* and Art. 86 for *plants*; i.e. *Seveso permit*).

All permit procedures (for the *environmental protection consent - EPC* and for different *environmental protection permits - EPP*) include the transparency and public decision procedure.

The procedure for the *environmental protection consent* – EPC (as notified above, it includes EIA) is separated from the procedure for obtaining the *building permit* and it is conducted by the Ministry for the environment. This procedure is based on the *environmental impact report.*[7] Once the *environment protection consent* – EPC is awarded, the procedure for *building permit* can start (or to be continued if started without it), Art. 63 of the EPA

Moreover, alongside the *environmental protection consent – EPC*, a bunch of other procedures are necessary to obtain the concordances of different public service providers; namely, it is necessary to get the concordances that future industrial installation can be connected to public service infrastructure, such as electricity infrastructure, drinking water infrastructure, savage infrastructure, etc. and to define conditions in these respects. All these concordances shall be collected within the building permit procedure. This means that the building permit procedure is a kind of the umbrella procedure, combining several other sub- or special procedures.

In general, procedures to obtain the building permit (which includes the environmental consent and EIA) are prescribed for the phase of a construction. Once the facility or industrial installation is built, another type of procedures are necessary. These procedures aim to obtain the *permit to use* the industrial installation. Within this permit the *environmental protection permit* – EPP (okoljevarstveno dovoljenje, i.e. OVD in Slovene) shall be issued. The *environmental protection permit – EPP* is a legal notion that comprises different kind of permits, depend on the facility and activities. As noted above, the main three are:

- *EPP* for IPPC installations;

[7] According to Art. 54 of the *environmental impact report,* prepared by the investor, shall contain in particular:

- description of the current state of the environment, including the existing burdens,
- description of the planned activity, including information on its purpose, location and extent,
- description of the envisaged measures for preventing, reducing and, when possible, eliminating significant detrimental impacts on the environment,
- information needed to identify and assess the main impacts of the planned activity on the environment, identify or estimate the principal impacts of the planned activity on the environment and their evaluation,
- review of principal alternatives that the entity responsible for the activity has considered, stating the reasons for the selected solution, in particular in respect of the environmental impacts,
- delineation of the area where the planned activity will cause environmental burdens which are likely to affect human health or property, and
- summary of the report intelligible to the general public.

- *EPP installations, which emit emission and these emissions are legally regulated (this permit is subject of different lex specialis regulations, like emission from incinerations plants; emission from the sewage waters, emissions from other different installations like waste treatment etc). List of these acts is a long one and comprehensive.*
- *Seveso EPP for industrial pollutions.*

These two stages (planning and construction phase at the one hand and operating on the other) are separated and, of course, a permit to build is no guarantee that the facility will also obtain any of the environmental protection permits. However, there are some specific connections between the both stages; for instance if there is a plan to substantially change the installation and building permit needs to be obtained, this permit may be issued after the *environmental protection permit - EPP* has become final.

If a plurality of permits etc. are required, is there a sort of co-ordination mechanism between them? Are they delivered by the same or different authorities, on what level (central, regional)? Is the procedure similar or not (including public participation)? What is the relation between them? Do you feel that the various procedures, taken as a whole, assure a full and sufficient integrated assessment and control of the environmental impacts in the broad sense (nature, landscape, land use, climate, air, water, noise, soil, energy, mobility, safety…)?

One can access that that a plurality of permits is a fact in Slovenian legal system, but there is sort of coordination, mechanism between them. The two phases (planning / building at the one hand and operating on the other hands) are to be distinguished, i.e. the initial (planning and construction, where SEA and EIA, respectively, are necessary (together with the public participation) and the second, after the construction is finished and the operator (the investor) has to apply for operation permit which includes different *environmental protection permit* EPPs and, again, the public participation. These two phases are separated but to some extent interconnected. Namely, in case of the *environmental protection permit* - EPP procedures, the EIA, prepared in the phase of the *environmental protection consent - EPC*, is a part of documentation as well (Art. 70, par. 2 EPA).

It is also true that certain permits are delivered by different authorities, also on different level (we differ between municipality and state level). The *environmental protection consent* – EPC is such an example since only the Ministry for the environment is competent to decide upon it. On the other side, the *building permit* can be issued by the same ministry, but by its individual territorial units, which are based in different parts of the country (basically in every town). This is not true in case where certain industrial installation is of state importance, like different infrastructure, for instance waste water treatment plants, the incineration plants etc. In such a case the Ministry for the environment itself is competent to issue the building permit (Art. 24 of the *Construction Act*[8]).

In any case, where EIA is necessary, the public participation is mandatory. The EIA is the central legal institute that makes possible to integrate assessment and future control of the environmental impacts in the most broader sense. The EIA has to take these into account

[8] Zakon o graditvi objektov (OJ RS, No. 102/04, 14/05, 92/05 – ZJC-B, 93/05 – ZVMS, 111/05 – odl. US, 126/07, 108/09, 61/10 – ZRud-1, 20/11 – odl. US, 57/12, 101/13 – ZDavNepr, 110/13 in 19/15), hereinafter: CA.

(Art. 51 EPA). With respect to the *environmental protection permits* - EPPs (as noted above, Slovenian rules provides several of them, but the main three groups are: IPPC EPP, Seveso EPP and diff. emissions EPP) it is possible to combine the issuance of all *environmental protection permits* - EPPs in only one procedure. Art. 93 *EPA* foresees this option. When the plant or part of the plant referred to in Article 86 (Seveso EPP) is at the same time the installation referred to in Article 68 (IPPC EPP), or any other installation referred to in Article 82 (Emissions EPP), the compliance with the requirements for issuing the *environmental protection permit* - EPP for the plant may be established, on the request of the investor or the operator of the plant, in the procedure for issuing the EPP for that installation (as a Seveso EPP). In such a case, the application for obtaining *environmental protection permit* – EPP shall include additional documents, which relate to the IPPC permit conditions. Also, in this integrated procedure, the public participation needs to be assured (the condition is part of the Seveso EPP procedure).

Has there been a tendency to partially or fully integrate different types of permits? Is it an on-going process?

Integration of different types of permitting is basically ongoing issue. Several steps have been done so far. The biggest one was conducted in 2010, when the "*Siting of Spatial Arrangements of National Importance Act*"[9] was adopted. This act foresees that the strategic environmental assessment (SEA) can be conducted together with EIA, simultaneously.

However, even if the above mentioned act is not applicable (i.e. even if the installation does not concern public importance) but, if the case concerns also the *nature conservation* (which is regulated in the *Nature Conservation Act*[10]), the *nature protection guidelines* will be conducted within the SEA procedure (Art. 101)[11]. This means that different procedures (SEA regarding the environment and SEA regarding the nature conservation) are combined in the single one.

As noted above, even more, for certain projects and installations which are part of state public infrastructure (like roads, highways, energy infrastructure, infrastructure of the environmental protection, waste water treatment plants), railway infrastructure, etc. is also possible to combine SEA and EIA. This, however, does not relate to the industrial installations, even though that state would be the investor. It refers only to public infrastructure.

[9] OJ of the RS, No 80/10, 106/10, 57/12, hereinafter SSANIA.

[10] OJ of the RS No 56-2655/1999, RS 31-1/2000, RS 119-5832/2002, RS 41-1693/2004, RS 61-2567/2006, RS 32-1223/2008, RS 8-254/2010 (hereinafter: NCA).

[11] Each plan (state or local) which is not directly related to or necessary for the management of the protected area established by the State or a special protection area and which could, by itself or in connection with other plans or acts, have a substantial impact on the area shall be studied and its impact on the protected area or special protection area shall be determined. The Ministry for the Environment shall *assess the impact of the plan or document on the protected area or special protection area referred to in the preceding paragraph on the basis of the study of comprehensive environmental impact assessment*. The assessment of the plan or document shall be favourable if it is established that the plan or document will not have a negative impact on the integrity of the protected area or special protection area.

On the other hand, for the industrial installations it is also possible to combine, in the same procedure, the EIA/or the SEA, and the *nature protection opinion* (Art. 101a and 101e of the Nature Conservation Act[12]); namely the *Institute of the Republic of Slovenia for Nature Conservation* (IRSNC[13]) prepares opinions, taking into account nature conservation conditions and the Ministry for the Environment needs to take the opinion into account.

How do you assess the plurality and integration of permits?

The plurality and integration of permits' procedures have been deeply discussed by the private sector, i.e. investors, especially in case of energy installations and infrastructure. Namely, at the one hand, Slovenia accepted a string commitment (in 2009) to the EU to use renewable energy resources (20% until 2020), but actually, we are lacking appropriate infrastructure. To accelerate procedures, especially those relating to the environmental conditions, planning, it was necessary to combine certain procedures. The level of integration is quite high, however, not as much as the private sector would like it. For instance, private investors would also like to have faster (short or simple) procedures for installations, that are alike to installations already installed anywhere in Slovenia, meaning that already issued *building permit*, including the EPP, would be a kind of proof or evidence that alike installation can also be built. This is, so far, not the case. On the other hand, the problem is also at the very begging of the planning chain – i.e. every plan has to be in line with the general spatial acts (plans) of certain municipality, and confirmed by the state (the Government). Municipalities are persistent in late coming with this general spatial acts. This acts are also subject of political decisions, of SEA and public participation. It is often that the public contravenes to the planes and a consequence is a delay in building permit procedure, including the EIA procedure.

2. Procedures

2.1. Short case study: Can you present a simple flowchart of a permitting procedure for the following installation, indicating the (estimated) time frames of the various steps, key authorities involved, including EIA, and the total time needed to go through the whole procedure in case of administrative appeal?

"Waste disposal installations for the incineration or chemical treatment as defined in Annex I to Directive 2008/98/EC under heading D9 of non-hazardous waste with a capacity exceeding 100 tonnes per day" (Annex I, pt. 10 EIA Directive).

[12] OJ of the RS, Nr. 56/1999, 31/2000 - popr., 110/2002 - ZGO-1, 119/2002, 41/2004, 61/2006 - ZDru-1, 32/2008 - odl. US, 8/2010 - ZSKZ-B, 46/2014.

[13] RSNC is a professional national (public) institution. It is not a political body. In compliance with the authorizations allocated to it by Slovene legislation or, to be more precise, by the Law on the Conservation of Nature (Nature Conservation Act), it cares for the conservation of Slovene nature, with a special attention given to the nature conservationist most valuable areas in the country.

The waste disposal installation can only be built in an area which is foreseen for such projects by general act of the municipality and approved by the state (spatial plans).[14] To include such installation into spatial plans, the SEA needs to be done. However, since waste disposal installation is a part of public infrastructure to protect the environment, it is part of the above-mentioned SSANIA and therefore the SEA and EIA, including the *natural protection opinion*, can be combined into a one single procedure. The procedure is conducted by the Ministry for the environment, whereby the procedure is transparent and 30 days period is given to NGOs[15] for comments. The same is true for those individuals that are concerned of the future installation (these are individuals that are living or having property within the affective area).

Once the SEA and the EIA, together with the *nature protection opinion* by IRSNC, are adopted, the procedure continues in order to adopt the *building permit*. It is quite difficult to predict and to estimate the time needed for the whole procedure. It depends, mostly, from the effects of public participation. If there is a heavy opposition or resistance towards the project, other options need to be discussed and proposed (Art. 24 of SSANIA). This requests additional time. In case of an appeal, the case is brought to Ministry into the dispute procedure and further on to the administrative court-dispute procedure at the Administrative Court. This is one stage procedure, but might also be two-stages procedure. It takes appx. 1,5 years, but in more complex cases two years for case to be decided at the first instance. Since the option for the second instance depends on the value of the dispute (margin is set to 20.000,00 EUR), it is quite likely that the case will be handled in two stages procedure. For the second stage the Supreme Court is competent. Here, additional year and the half or two years are necessary for the final decision.

2.2 What are the main characteristics of the applicable permit procedure or procedures?

The questions are about the different permits if more than one permit is needed for an 'intended activity'!

- *Who is (are) the competent authority (authorities)?*

The competent authority to issue a *building permit* is Ministry for the environment and spatial planning. However, this ministry has so called *administrative units* in every town across Slovenia; These administrative units are competent to decide on building permits. Exceptionally, when building permit shall be issued for a construction of a state importance, the ministry itself is competent body from the very beginning (Art. 24 CA).

On the other hand, the *environmental protection permits* – EPP and the *environmental protection consents* – EPC are to be issued by the *Agency for environmental protection* (Agencija za okolje RS, ARSO). This agency is an administrative body within the ministry,

[14] In case of the infrastructure projects of state's importance, the strategic plan is prepared on state level.
[15] Those NGOs, having the decision of the authority that they are acting in public interests; i.e. public participation is not possible for every single NGO.

competent for all environmental decision-making regarding individual acts, such as the *environmental permits/consents*. If the future installation is to be having impacts to the nature, the *nature protection guidelines/opinion* are also necessary. Here, the institute of the Republic of Slovenia for nature conservation (IRSNC), which is a public institute, independent one, issues an opinion whether the project is suitable also from the viewpoint of the nature protection and conservation. This opinion is filed into the procedure for the *environmental protection permit* - EPP; ARSO can uphold it, or not.

- *Is EIA integrated in the permitting procedure or is it an autonomous procedure that precedes the introduction of an application for a permit (or for the various permits)? In the latter case, can EIA be carried out once more at the next stage of the development process (e.g. in the building or environmental permit procedure)?*

  The EIA is not fully integrated permitting procedure. It is a procedure which is conducted by the Ministry, apart from the procedure to obtain building permit. It starts on the environmental report, prepared by the investor.[16] However, the procedure for issuing the building permit is very much depending on the EIA procedure. Only once the EIA is positive and final, where no regular legal remedies are possible, the procedure for issuing the building permit can continue (Art. 53 / 62 EPA).

- *Is there a differentiation between large, intermediate and smaller installations? Is a notification to the relevant public authority in some cases sufficient? Is there a possibility to exclude certain installations even from the notification requirement?*

[16] Art. 41 EPA defines: »The producer of the plan for which an environmental impact assessment is to be carried out has to produce an environmental report before the environmental impact is assessed. The report has to define, describe and evaluate the environmental impact of the plan and possible alternatives while taking into account the goals and geographic characteristics of the area to which the plan pertains.«
In addition Art. 54 of EPA defines the content of the environmental report:
(1) Environmental impact assessment shall be carried out on the basis of the report on environmental impacts of the planned activity (hereinafter referred to as the "environmental impact report").
(2) An environmental impact report must contain in particular:
1. description of the current state of the environment, including the existing burdens,
2. description of the planned activity, including information on its purpose, location and extent,
3. description of the envisaged measures for preventing, reducing and, when possible, eliminating significant detrimental impacts on the environment,
4. information needed to identify and assess the main impacts of the planned activity on the environment, identify or estimate the principal impacts of the planned activity on the environment and their evaluation,
5. review of principal alternatives that the entity responsible for the activity has considered, stating the reasons for the selected solution, in particular in respect of the environmental impacts,
6. delineation of the area where the planned activity will cause environmental burdens which are likely to affect human health or property, and
7. summary of the report intelligible to the general public.
(3) In the drawing-up of the report referred to in the preceding paragraph, as a rule, the accessible data and knowledge together with practices of environmental impact assessment shall be used.
(4) Ministries and other competent bodies and organisations shall ensure that the entity responsible for the planned activity has access to the information necessary for drawing up the environmental impact report, if such information is available.
(5) The Government shall lay down the detailed content of the report referred to in the first paragraph of this Article, the method of drawing up and methodology for delineating the area referred to in point 6 of the second paragraph of this Article.

Which installations are subject of EIA is defined by special regulation, adopted by the Government (*Regulation on plans that require the environmental impact assessments*[17]), which sets forth also the criteria for comprehensiveness of installations and their effects. From this viewpoint, there is no differentiation between large, intermediate or small installations; however, the margin is sent to lower level, meaning that anything that is above the margin, or above the regulated level, is subject to EIA. However, there might be a preliminary procedure conducted (Art. 3) aiming to asses, whether certain plant installation shall or shall not be subject to the EIA. This means that notification to relevant public authority (Ministry for the environment), will only be sufficient in cases that this preliminary procedure will give negative results, in a sense that EIA is not necessary. All other installations that are below the thresholds, foreseen in the above mentioned regulation, does not have to notify ARSO.

- *Are competent planning and environmental authorities consulted during the decision-making procedure or procedures, if more than one permit is needed? Within what time limit have they to give their opinion? Are these opinions binding or not? Do they have some weight in practice?*

  According to 51.a EPA, the investor can ask the Ministry for the environmental and spatial planning for the preliminary opinion whether EIA shall or shall not be conducted.[18] Answer to this request will be given into the preliminary procedure conducted by the ministry. Actually, this is a kind of exemption, while the ministry is not seen as opinion maker, but as a decision maker. However, such opinion as mentioned is foreseen by the EPA itself and is binding in its nature.

- *Is there public participation in every case? At which stage of the development? Is it broadly announced and used? What time frames apply? Is the public participation on the application or on the draft decision?*

  Once it is decided that EIA is necessary, the public participation is mandatory. It is not foreseen that public is part of the decision-making procedure if the answer is negative, i.e. if EIA is not necessary. The public is given possibility to be involved in decision-making procedure (in procedure to issue the environmental protection consent and the environmental permit). The public is involved during the EIA procedure. A period of 30 days is given to the public to express remarks and opinions. The base for these is the plan, i.e. the future project. The base is not a draft decision of the authorities. Notice given to the public shall be published in the media and on the internet. There is a condition, that media shall take into account usual communication (i.e. the notice shall not be published in a newspaper which is not usually read in certain area).

[17] OJ of the RS, No 51/2014, 57/2015.
[18] This rule is further on regulated in details in the Regulation on environmental encroachments that require environmental impact assessments, Oj RS, No. 51/14 in 57/15). See Art. 3

- *What time frame applies from the introduction of the application to the decision in first administrative instance (i.e. when a developer receives final decision allowing to start development, however, before possible appeal to a higher authority)?*

  According to the *General Administrative Procedure Act*[19], the decision shall be issued in 60 day, and this time period starts to run once the application is completed. However, EPA defines three months for the *environmental protection consent* to be issued (Art. 61). The same is true for *the environmental permit* (Art. 84 for installations with emissions to air, soil, water, Art. 89 for Seveso permit). Only IPPC permit is to be issued in six months. Before that, the authorities can use 21 days for inter-ministry opinions, 60 days to decide whether EIA is necessary, 15 days for assessment whether EIA and the application for building permit are congruent, 30 days for public to give opinions in EIA decision, etc.

- *Is there an administrative appeal against a decision on a permit or the various needed permits? What is the competent authority (or authorities) to whom an appeal can be lodged? Who can lodge the appeal (only parties of the proceeding, NGO, everybody), within what time? What time frame applies to reach a decision on appeal? What if the time frames are not respected?*

  Legal remedies are different for building permit decision at the one hand and the other hand for EIA decision (reflected in the *environmental protection consent - EPC* and also in the *environmental protection permit – EPP*). An appeal against the building permit is possible to the Ministry itself, except, in case of installations of state importance where the ministry itself issues a decision; (in such a case a lawsuit in administrative dispute is possible to the Administrative court).

  For decisions on permitting (the *environmental protection consent* – EPC and also in the the *environmental protection permit - EPP)* only the lawsuit is possible to the administrative court (administrative dispute can commence in 30 days' time). NGOs do have *locus standi* in these cases. And, it has to be stressed that not all NGOs can have *locus standi*, but only those that are having a special decision of the authorities, that they are acting in public interests (Art. 152 EPA).

  Individuals can be party to the administrative appeal and can also to file the lawsuit at the Administrative court only if they were a party of the administrative procedures. This means that this are only those individuals, who are living or having property within the affected area of the future planed installation (Art. 73 EPA).

  If the time frames are not respected *lex silentio positivo* is not the case. The action for inactivity is only possible. The effect of the inactivity is negative one, meaning that the party can lodge the legal remedies as in the case that permit is rejected. *Directive on services on the internal market*, which is implemented in to the *Act on services in the internal market* [20] is not helping in this case. Namely, according to Art. 11 of the mentioned act, procedures

[19] OJ of the RS, No 80/1999, 70/2000, 52/2002, 73/2004, 119/2005, 105/2006 - ZUS-1, 126/2007, 65/2008, 8/2010, 82/2013.
[20] OJ RS, No 21/10.

relating to the environmental permits are not part of the act and not part of the *lex silentio positivo* solution.

II. Infrastructural Projects

Here we would like to investigate how according to environmental and planning law a project that is not as such provided for in the land use plans can be realized.

We can take as an example the construction of a highway of the type indicated in Annex I, point 7, (b), of the EIA Directive.

1. Is there a need to draw up a plan or to review a plan in the sense of Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment?

If yes, can you in a concise way give an overview of what this means in terms of procedure, including SEA, public participation, administrative appeal (if any), and time frames?

Highways are subject to EIA according to the *Regulation on plans that require the environmental impact assessments.*[21] Also, the route infrastructure is regulated in the SSANIA and therefore as noted above, SEA and EIA can be conducted in one procedure only. Nevertheless, the participation of public is assured and the same time-frame for public participation applies as it is regulated for other projects, which are not of state importance and subject of SSANIA. Again, 30 days is given to the public as a time-frame in which they can express their remarks. Even more, if environmental or nature protection guidelines, different data, remarks of the public… propose different solutions, a variant shall be prepared. That means, that also SEA and EIA can be a newly conducted.

2. Would there be a need to obtain one or more permits to construct and operate the highway mentioned under point II? Is an EIA necessary? Is there a coordination mechanism integrating the substance and procedure of the permits? If appropriate and available, a flow chart could be attached. What are the characteristics of the procedures?

As noted above, EIA is necessary for planning purposes and once the highway is built the *operation permit* is also necessary. The *operation permit* has a crucial role; it is necessary to establish, whether the built project, such as a highway, was constructed in concordance with building permit.

The main characteristic of this procedure is that it shall be accelerated in comparison to other procedures like industrial installation. Therefore, combining all different assessment like alike SEA, EIA and nature conservation opinion is possible.

According to our experiences, substantive time is necessary for the state to obtain a right to build on the land; meaning that the individuals, owners of the spots hesitate to sell the plots to the state in order for the state to start conducting procedures to obtain building

[21] OJ of the RS, No 51/2014, 57/2015.

permits. Therefore, the SSANIA regulates also in the accelerated procedure for an expropriation. Legal remedies against the expropriation decision are still available, but expropriation its self is rather fast, conducted by the administrative authorities.

B. Describing and evaluating integration and speed up legislation

Have there been initiatives in your legal order to introduce specific legislation to integrate and speed up decision making for infrastructure projects/industrial installations?

As noted above, the most important specific piece of legislation to integrate and speed up decision-making for infrastructure projects, partial also for industrial installation (in case they are a part of state infrastructure like waste water treatment plants, incinerations of waste plants), is SSANIA. Apart from that, the EPA and the *Nature Conservation Act* foresee combining procedures for environmental protection consent and nature protection opinion. I would asses that these are two the most important speed up changes.

If so:

(a) *When was this done?* This was done in 2010.

(b) *What was the general justification?* The main justification is a reason to speed up procedures. Traditionally procedures regarding the environmental protection consent, env. permits, and other kind of spatial related permit and consents, like building permits, etc., were long lasting and not only the private investors, but the state itself were faced with huge administrative burdens and delays issuing the permits.

(c) *What types of projects does it apply to?* This speed up procedures apply for state based infrastructure and projects that are important for different kind of public infrastructure like road infrastructure, railway infrastructure, air traffic infrastructure, cross boarders' infrastructure, energy infrastructure (electricity, gas, etc.), mining infrastructure and the infrastructure that relates to installations having the environmental protection goals (waste water treatment plants etc).

(d) *What key aspects of procedure are speeded up?* (public participation, greater integration of criteria and procedures to avoid duplication, notification instead of permit requirement, consent by time lapse, stepwise permitting etc.) The main key aspect of accelerated procedures is avoidance of duplication and similar procedures, especially SEA and EIA. The public participation in this regards is not neglected or disregarded. Basically, the public participation is not effected in this respect, although it is in the sphere of the public participation, where the most projects are facing delays.

(e) *Have there been any legal challenges to the changes?* (e.g. non-compliance with EU environmental law, Aarhus etc.) So far, there were no challenges of these norms regulating the accelerated procedure.

(f) *Has there been any evaluation of previous situations and/or the impact of speeding up?* Not to my knowledge.

What is your own assessment of integration and speeding up measures?

I am of the opinion, that the acceleration was indeed necessary. A duplication of procedures which were quite similar are avoided, also the different outcome of similar procedures. Important is that IRSNC retained its position and it is still competent to give opinions from the nature conservation viewpoints. Also, expropriations are within the limits of the principle of proportionality. Namely, it was true that individuals hesitated to sell the land to the investor, especially when the investor was the state. To certain extend, a blackmailing was at stake. Individuals were aware that the state is ready to giving them better offer than it is necessary the more is urgent to start with construction of certain project. This was especially true in case of highways constructions. On the other hand, the expropriations procedures lasted long, especially when dispute reaches the court. According to SSANIA the court procedure cannot prevent the full effect of the expropriation as a proof to right to conduct construction.

C. Locus standi for a local government within the permitting procedure

Under what conditions (and whether at all) a local government may file a complaint against an environmental permit for an installation or infrastructure project.[22]

Local governments are, according to Art 26 of the SSANIA, part of the procedures of spatial planning, SEA and EIA. Within this procedures, the local governments and state authorities try to find common language and get to the consensus. This is actually good. There are rare cases where municipality would reject a state plan; nevertheless, it happens, especially in planning highways and environmental unfriendly infrastructure, like waste treatment projects. These are sensitive cases and they raise problems. If the consensus is not the case, then the local governments can file a constitutional complain at the Constitutional Court against the general acts. However, if the case concerns individual act like the environmental permit, the environmental protection consent or even building permit, the municipalities or local government can start actions at the Administrative court in 30 days' time limit. However, as noted above, consensus is quite often achieved. Even more, in certain cases the municipalities would like to see state investments in their district.

[22] Right now this is topical issue in Latvia as well as locus standi for municipality was recently intesively discussed before the Aarhus Convention Compliance Committee in connection with admissibility of the case from a local government of Germany.